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COPYRIGHT ACT
AND
REGULATIONS
AND
REGISTRATION OF BOOKS ACT,
XXV OF 1867
AS AMENDED UP TO DATE,
WITH
HEAD NOTES OF CASES.

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ETC, ETC., ETC.

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REGISTRATION OF BOOKS

AND

COPYRIGHT ACTS.

ACT NO. XXV OF 1867.—[*22nd March 1867.*]

[AS AMENDED BY ACTS X OF 1890, III AND X OF 1914
AND XIV OF 1922.]

An Act for the regulation of Printing-presses and Newspapers, for the preservation of copies of books printed in British India, and for the registration of such books.

Whereas it is expedient to provide for the regulation
of printing-presses and of periodicals
containing news, for the preservation
of copies of every book printed or lithographed in British
India, and for the registration of such books ;

It is hereby enacted as follows :—

PART I.—PRELIMINARY.

1. In this Act, unless there shall be something
repugnant in the subject of con-
text,—

“book” includes every volume, part or division of
a volume, and pamphlet, in any
language, and every sheet of music,
map, chart or plan separately printed or lithographed :

“British India” means the territories which are or shall be vested in Her Majesty or Her Successors by the Statute, 21 and 22 Vict., cap. 106 (*An Act for the better Government of India*) * * * * :

Editor. [“editor” means the person who controls the selection of the matter that is published in a newspaper].

Magistrate. “Magistrate” means any person exercising the full powers of a Magistrate, and includes a Magistrate of Police * * * * :

Newspaper. [“newspaper” means any printed periodical work containing public news or comments on public news].

Local Government. And in every part of British India to which this Act shall extend, Local Government shall mean the person authorised by law to administer executive Government in such part, and includes a Chief Commissioner.

NOTES.

7 A. W. N. 95,—Joti Prasad. (1887). In this case the applicant for revision caused to be printed copies of certain books, which previously had been printed at the Government Press, Allahabad, and offered them for sale, and sold some of them. Some of these books did not contain the name of the printer and the place of printing or the name of the publisher and the place of publication. Other books had printed upon them the words, “Government Press, Allahabad.” *Held*, that in respect of those books which did not contain the name of the printer or publisher, the prisoner was properly convicted of an offence under s. 12. A man who causes a book to be printed and offers it to the public for sale is publisher within the meaning of ss. 3 and 12. S. 3 applies to every

volume of the book. *Held*, also, that in respect of the books which contained the words, "Government Press, Allahabad," the prisoner was guilty of an offence under s. 12.

2. [*Repeal of Act XI of 1835*]. *Rep. Act XIV of 1870*.

PART II.—OF PRINTING-PRESSES AND NEWSPAPERS.

3. Every book or paper printed within British India shall have printed legibly on it the name of the printer and the place of printing, and (if the book or paper be published) (the name) of the publisher and the place of publication.

Particulars to be printed on books and papers.

NOTES.

(1) See—7. A. W. N, 95,—Joti Pershad page 2 *ante*.

(2) 1 Bom. Cr. C. 70,—Hari. The printer of a book is bound to imprint his name and the place of printing, under s. 3, even if he has printed only a portion of the book.

(3) 16 Mad. 443,—Hari Shenoy. A newspaper was printed and published bearing the following words: "Printed and published at Cochin for the Malabar Economic Company at the Company's Goshree Vilasam Press" *Held*, that these words did not satisfy the requirements of the Act.

(4) 23 Cal. 414,—Banka Patni. The word "publisher" has been used in the Printing Presses and Newspapers Act in the restricted sense and does not include a person who merely sells a book or a paper.

(5) P. R. 1909, 5 Cr,—Bhawani Das. Section 3 requires that every paper printed and published in British India shall have legibly printed on it the name of the printer and the place of printing and name of the publisher and place of publication as such. An omission to comply with section 3 is punishable under section 12,—sections 3 and 4 do not deal with intention. Printers and publishers cannot be allowed to select for themselves the description to be used in professing to comply with the Act, but they must use the descriptions prescribed by the Act.

(G) **34 Cal. 986,—Abinas Chandra Bhattacharya.** A printing press cannot be said to have been used for the commission of sedition in as much as the offence consists in the publication and not the printing,—the press being only a remote instrument.

4. No person shall, within British India, keep in his possession any press for the printing of books or papers, who shall not have made and subscribed the following declaration before the Magistrate within whose local jurisdiction such press may be :

“I, *A. B*, declare that I have a press for printing at——.”

And this last blank shall be filled up with a true and precise description of the place where such press may be situate.

NOTES.

(1) **35 Bom. 55,—Shankar Srikrishna Dev.** The accused had made a declaration, under s. 4 of the Act that he was the owner of a press called the “Atmaram Press.” The management of the press was carried on by another person who looked after the whole concern. At this press was printed a bulky book which purported to be one devoted to metaphysics and philosophy and was styled “*Ekashloki Gita*.” It was a book that dealt to a large extent with metaphysics, philosophy and religion. It also contained seditious matter scattered among discussions of religious matters. The accused took no part in the management of the press; nor did it appear that he had read the book or acquainted himself with the nature of it. He was charged with the offence made punishable under s. 124A, Penal Code, and convicted of the same.—*Held* (1) that the cumulative effect of the surrounding circumstances was such as to make it as probable that the accused had not read the book or that he had known its seditious object: and that the evidence having thus been evenly balanced and equivocal, a reasonable doubt arose as to the guilt of the accused, the benefit of which must be given.

to him ; (2) that it was impossible to convict the accused under section 124A, Penal Code, unless it was found that he had an intention of exciting disaffection, and that the evidence fell very far short of proving the intention. A declaration made under s. 4 of the Press Act, 1867, is intended by the legislature to have certain effect, namely, that of fastening responsibility for the conduct of the press on the person declaring in respect of matters where public interests are involved. Therefore, when a book complained of as seditious or libellous is printed on a press, the court performing the functions of a jury may presume that the owner had a hand in the printing and was aware of the contents and character of the book. But whether such a presumption is warranted in any individual case must depend upon its own facts and circumstances. The presumption, however, is not conclusive, it is not one of law but of fact, and it is open to the accused to rebut it.

(2) **9 P. R. 1889 Cr.**,—**Bawa Narain Singh.** Where an accused person convicted on a summary trial of an offence under s. 13 had removed his press, as to which he had made the declaration under s. 4, from the building, in which it was originally kept, to another building and had not made a fresh declaration under s. 5 as to the new premises, on the ground that no fresh declaration was necessary : *Held*, that offence was not triable summarily, and that where the new place of business is within the same local jurisdiction as the former place, a fresh declaration was unnecessary ; there is no clause in s. 4 (corresponding to the provision of s. 5) requiring a new declaration as often as a change of place takes place.

5. No [newspaper], shall be published in British India,

Rules as to publication of printed periodicals containing public news.

except in conformity with the rules hereinafter laid down :

(1) [Every copy of every such [newspaper] shall contain the name of the person who is the editor thereof printed clearly on such copy as the name of the editor of that newspaper].

(2) The printer and the publisher of every such [newspaper] shall appear [in person or by agent authorised in

this behalf in accordance with rules made under section 20, before a District, Presidency or Sub-divisional Magistrate within whose local jurisdiction such newspaper shall be printed or published, or such printer or publisher resides,] and shall make and subscribe, in duplicate, the following declaration :

"I, *A. B.*, declare that I am the printer [*or publisher, or printer and publisher*] of the periodical work, entitled— and printed [*or published, or printed and published, as the case may be*] at——."

And the last blank in this form of declaration shall be filled up with a true and precise account of the premises where the printing or publication is conducted :

(3) As often as the place of printing or publication is changed, a new declaration shall be necessary :

(4) As often as the printer or the publisher who shall have made such declaration as is aforesaid shall leave British India, a new declaration from a printer or publisher resident within the said territories shall be necessary.

[Provided that no person who has not attained majority in accordance with the provisions of the Indian Majority Act, 1875, or of the law to which he is subject in respect of the attainment of majority, shall be permitted to make the declaration prescribed by this section, nor shall any such person edit a newspaper].

NOTES.

(1) **22 Bom. 112,—Bal Gangadhar Tilak, (Kesari).** In the absence of any evidence to the contrary, you will be justified in holding that the prisoner **Tilak** was the publisher of every article and every word in the *Kesari*.

(2) 19 Mad. 387,—*Ramaswami v. Lokananda*. The intention of the Act was to constitute the declarations made by a person that he was the printer and publisher of a newspaper into *prima facie* evidence of publication and to throw on the accused the burden of showing that the actual publisher of the libel was not the person mentioned in the declaration. The presumption could be rebutted if such person showed that he entrusted in good faith the temporary management of the newspaper to a competent person during his absence, and that the libel was published without his authority, knowledge or consent.

6. Each of the two originals of every declaration so made and subscribed as is aforesaid, shall be authenticated by the signature and official seal of the Magistrate before whom the said declaration shall have been made.

One of the said originals shall be deposited among the records of the office of the Magistrate, and the other shall be deposited among the records of the High Court of Judicature, or (other principal Civil Court of original jurisdiction for the place where) the said declaration shall have been made.

The officer in charge of each original shall allow any person to inspect that original on payment of a fee of one rupee, and shall give to any person applying a copy of the said declaration, attested by the seal of the Court which has the custody of the original, on payment of a fee of two rupees.

7. In any legal proceeding whatever, as well civil as criminal, the production of a copy of such declaration as is aforesaid, attested by the seal of some Court

Office copy of declaration to be *prima facie* evidence.

empowered by this Act to have the custody of such declarations, [or in the case of the editor, a copy of the newspaper containing his name printed on it as that of the editor] shall be held (unless the contrary be proved) to be sufficient evidence, as against the person whose name shall be subscribed to such declaration, [or printed on such newspaper, as the case may be] that the said person was printer or publisher, or printer and publisher (according as the words of the said declaration may be) of every portion of every [newspaper] whereof the title shall correspond with the title of the [newspaper] mentioned in the declaration, [or the editor of every portion of that issue of the newspaper of which a copy is produced].

NOTES.

(1) **35 Bom. 55,—Sri Krishna Dev.** A declaration made under s. 5 may be withdrawn under this section by means of a fresh declaration.—(Vide note (1) on page 4.)

(2) **35 Cal. 141,—Apurba Krishna Bose.** A person who subscribes the declaration must be presumed, under this section, to be cognisant of all that he was printing and publishing and, in the absence of any evidence to the contrary, his liability in the matter cannot be gainsaid.

(3) **35 Cal. 945,—Phanendra Nath Mitter.** This section makes the printer or publisher responsible for whatever may appear in a newspaper, whoever the writer of the article may be, and, therefore, a prosecution may proceed against the printer, unless he can prove absence from the newspaper office in good faith and without knowledge that the seditious articles would be published during his absence. But it is not absence in good faith for a printer, to go away knowing very well what is going to happen in his absence and for the purpose of shirking his liability.

(4) **P.R. 1905, Cr. 1,—Ram Nath.** The registered printer of a paper, so long as he continues such printer cannot escape from criminal liability

for publication therein, of a seditious article, by plea that he was temporarily absent from the station when the article was printed, or that he was ignorant of the contents thereof, or that he had no intention of committing any offence.

(5) **32 Mad. 338, —Harisarvothama Rao.** A person making a statutory declaration that he is printer and publisher of a newspaper, is presumably liable as such printer or publisher, but may rebut such presumption.

(6) **38 Cal. 227, —Surendra Prasad Lahiri.** Where certain articles appearing in a newspaper are seditious, the declared printer would be responsible for the said articles, unless he can make out on sufficient evidence, that he had in fact nothing to do with them. The editor of a paper was convicted under section 124A., I. P. C., and sentenced to one years imprisonment on 22nd December 1907. After his release from jail, however, he resumed his work as editor. The declared printer and publisher of the paper made his declaration on the 16th June 1908. He left the town of publication of the paper on the 28th August 1909 and returned on the 29th November, during which period he was engaged in his own business as a photographer and general dealer elsewhere. He did not take any interest in the paper, but his name still appeared therein as its printer and publisher. He was tried with the editor for two seditious articles appearing on the 10th September and 26th November 1909, during his absence, and was convicted. *Held*, that as he allowed his name to remain on the record as the printer and as he did not make out the *bona fides* of his absence from the place of publication he was legally responsible for the articles.

8. Provided always that any person who may have subscribed any such declaration as is aforesaid, and who may subsequently cease to be the printer or publisher of the [newspaper] mentioned in such declaration, may appear before any Magistrate, and make and subscribe in duplicate the following declaration :—

New declaration by persons who have signed declaration and subsequently ceased to be printers or publishers.

“I, *A. B.*, declare that I have ceased to be the printer [*or publisher, or printer and publisher*] of the periodical work entitled——.”

Each original of the latter declaration shall be authenticated by the signature and seal of the Magistrate before whom the said latter declaration shall have been made, and one original of the said latter declaration shall be filed along with each original of the former declaration.

The officer in charge of each original of the latter declaration shall allow any person applying to inspect that original on payment of a fee of one rupee, and shall give to any person applying a copy of the said latter declaration, attested by the seal of the Court having custody of the original, on payment of a fee of two rupees.

In all trials in which a copy, attested as is aforesaid, of the former declaration shall have been put in evidence, it shall be lawful to put in evidence a copy, attested as is aforesaid, of the latter declaration, and the former declaration shall not be taken to be evidence that the declarant was, at any period subsequent to the date of the latter declaration, printer or publisher of the periodical work therein mentioned.

[8A. If any person, whose name has appeared as editor on a copy of a newspaper, claims that he was not the editor of the issue on which his name has so appeared, he may, within two weeks of his becoming aware that his name has been

Authentication and filing.

Inspection and supply of copies.

Putting copy in evidence.

Person whose name has been incorrectly published as editor may make a declaration before a Magistrate.

so published, appear before a District, Presidency or Sub-divisional Magistrate and make a declaration that his name was incorrectly published in that issue as that of the editor thereof, and if the Magistrate after making such inquiry or causing such inquiry to be made as he may consider necessary is satisfied that such declaration is true, he shall certify accordingly, and on that certificate being given the provision of section 7 shall not apply to that person in respect of that issue of the newspaper.

The Magistrate may extend the period allowed by this section in any case where he is satisfied that such person was prevented by sufficient cause from appearing and making the declaration within that period].

PART III.—DELIVERY OF BOOKS.

9. Printed or lithographed copies of the whole of every book which shall be printed or lithographed in British India after this Act shall come into force, together with all maps, prints or other engravings belonging thereto, finished and coloured in the same manner as the best copies of the same, shall, notwithstanding any agreement (if the book be published) between the printer and publisher thereof, be delivered by the printer at such place and to such officer as the Local Government shall, by notification in the official Gazette, from time to time direct, and free of expense to the Government, as follows, that is to say:—

Copies of books printed after commencement of Act to be delivered *gratis* to Government.

- (a) in any case, within one calendar month after the day on which any such book shall first

be delivered out of the press, one such copy, and,

- (b) if within one calendar year from such day the Local Government shall require the printer to deliver other such copies not exceeding two in number, then within one calendar month after the day on which any such requisition shall be made by the Local Government on the printer, another such copy, or two other such copies, as the Local Government may direct,

the copies so delivered being bound, sewed or stitched together and upon the best paper on which any copies of the book shall be printed or lithographed.

The publisher or other person employing the printer shall, at a reasonable time before the expiration of the said month, supply him with all maps, prints and engravings finished and coloured as aforesaid, which may be necessary to enable him to comply with the requirements aforesaid.

Nothing in the former part of this section shall apply to—

- (i) any second or subsequent edition of a book in which edition no additions or alterations either in the letter-press or in the maps, bookprints or other engravings belonging to the book have been made, and a copy of the first or some preceding edition of which book has been delivered under this Act, or
- (ii) any [newspaper] published in conformity with the rules laid down in section 5 of this Act.

10. The officer to whom a copy of a book is delivered under the last foregoing section shall give to the printer a receipt in writing therefor.

Receipt for copies delivered under section 9.

11. The copy delivered pursuant to clause (a) of the first paragraph of section 9 of this Act shall be disposed of as the Local Government shall from time to time determine. Any copy or copies delivered pursuant to clause (b) of the said paragraph shall be transmitted to the British Museum or the Secretary of State for India, or to the British Museum and the said Secretary of State, as the case may be.

Disposal of copies delivered under section 9.

[11A. The printer of every newspaper in British India shall deliver at such place and to such officer as the Local Government may, by notification in the local official Gazette, direct, and free of expense to the Government, two copies of each issue of such newspaper as soon as it is published].

Copies of newspaper printed in British India to be delivered *gratis* to Government.

PART IV.—PENALTIES.

12. Whoever shall print or publish any book or paper otherwise than in conformity with the rule contained in section 3 of this Act shall, on conviction before a Magistrate, be punished by fine not exceeding [two thousand]

Penalty for printing contrary to rule in section 3.

rupees, or by simple imprisonment for a term not exceeding [six months], or by both.

13. Whoever shall keep in his possession any such press as aforesaid, without making such a declaration as is required by section 4 of this Act, shall, on conviction before a Magistrate, be punished by fine not exceeding [two thousand] rupees, or by simple imprisonment for a term not exceeding [six months], or by both.

Penalty for keeping press without making declaration required by section 4.

See note—(1) 7 A. W. N. 95,—Joti Pershad. Page 2 *ante*.

See note—(5) P. R. 1909, 5, Cr,—Bhawani Das. Page 3 *ante*.

14. Any person who shall, in making any declaration under the authority of this Act, make a statement which is false, and which he either knows or believes to be false or does not believe to be true, shall on conviction before a Magistrate, be punished by fine not exceeding [two thousand] rupees, and imprisonment for a term not exceeding [six months].

Punishment for making false statement.

15. Whoever shall [edit], print or publish any [newspaper] described without conforming to the rules hereinbefore laid down, or whoever shall [edit], print or publish, or shall cause to be [edited], printed or published, any [newspaper], knowing that the said rules have not been observed with respect to [that newspaper], shall, on conviction before a Magistrate, be punished with fine not exceeding [two thousand] rupees or

Penalty for printing or publishing periodicals without conforming to rules.

imprisonment for a term not exceeding [six months], or both.

16. If any printer of any such book as is referred to in section 9 of this Act shall neglect to deliver copies of the same pursuant to that section, he shall for every such default forfeit to the Government such sum not exceeding fifty rupees as a Magistrate having jurisdiction in the place where the book was printed may, on the application of the officer to whom the copies should have been delivered or of any person authorized by that officer in this behalf, determine to be in the circumstances a reasonable penalty for the default, and, in addition to such sum, such further sum as the Magistrate may determine to be the value of the copies which the printer ought to have delivered.

If any publisher or other person employing any such printer shall neglect to supply him, in the manner prescribed in the second paragraph of section 9 of this Act, with the maps, prints or engravings which may be necessary to enable him to comply with the provisions of that section, such publisher or other person shall for every such default forfeit to the Government such sum not exceeding fifty rupees as such a Magistrate as aforesaid may, on such an application as aforesaid, determine to be in the circumstances a reasonable penalty for the default, and, in addition to such sum, such further sum as the Magistrate may determine to be the value of the maps, prints or engravings which such publisher or other person ought to have supplied.

[16 A. If any printer of any newspaper published in British India neglects to deliver

Penalty for failure to supply copies of newspapers *gratis* to Government.

copies of the same in compliance with section 11A, he shall, on the complaint of the officer to whom copies should have been delivered or of any person authorised by that officer in this behalf, be punishable, on conviction by a Magistrate having jurisdiction in the place where the newspaper was printed, with fine which may extend to fifty rupees for every default],

17. Any sum forfeited to the Government under the last foregoing section may be recovered, under the warrant of the Magistrate determining the sum, or of his successor in office, in the manner authorised by the Code of Criminal Procedure for the time being in force, and within the period prescribed by the Indian Penal Code, for the levy of a fine.

All fines or forfeiture under this Part of this Act shall, when recovered, be disposed of as the Local Government shall from time to time direct.

PART V.—REGISTRATION OF BOOKS.

18. There shall be kept at such office, and by such officer as the Local Government shall appoint in this behalf, a book to be called a Catalogue of Books printed in British India, wherein shall be registered a memorandum of every book which shall have been delivered (pursuant to clause (a) of the first paragraph of section 9) of this Act.

Registration of memoranda of books.

Such memorandum shall (so far as may be practicable) contain the following particulars (that is to say):—

- (1) the title of the book and the contents of the title-page, with a translation into English of such title and contents, when the same are not in the English language :
- (2) the language in which the book is written :
- (3) the name of the author, translator or editor of the book or any part thereof :
- (4) the subject :
- (5) the place of printing and the place of publication :
- (6) the name or firm of the printer and the name or firm of the publisher :
- (7) the date of issue from the press or of the publication :
- (8) the number of sheets, leaves or pages :
- (9) the size :
- (10) the first, second or other number of the edition :
- (11) the number of copies of which the edition consists :
- (12) whether the book is printed or lithographed :
- (13) the price at which the book is sold to the public :
and
- (14) the name and residence of the proprietor of the copyright or of any portion of such copyright.

Such memorandum shall be made and registered in the case of each book as soon as practicable after the delivery of the (copy thereof pursuant to clause (a) of the first paragraph of section 9).

Effect of Registration. Rep. [Copyright Act, III of 1914].

19. The memoranda registered during each quarter in the said Catalogue shall be published in the local Gazette as soon as may be after the end of such quarter, and a copy of the memoranda so published shall be sent to the said Secretary of State, and to the Government of India, respectively.

PART VI.—MISCELLANEOUS.

20. The Local Government shall have power to make such rules as may be necessary or desirable for carrying out the objects of this Act, and from time to time to repeal, alter and add to such rules.

All such rules, and all repeals and alterations thereof, and additions thereto, shall be published in the local Gazette.

21. The Local Government may, by notification in the local Gazette, exclude any class of books from the operation of the whole or any part or parts of this Act.

22. [*Continuance of parts of Act.*] Rep. Act X of 1890, s. 7.

23. [*Commencement.*] Rep. Act XIV of 1870.

Notes of some of the cases under the Copyright Act XX of 1847.

(1) **Hyde of 9,—Roussac vs. Thacker and Co.** Where there is no original matter in the work, the strongest evidence of servile imitation and piracy must be afforded before an action for an infringement of copyright can be successful.

(2) **13B om. 358,—Ganga Vishnu Shrikrishandas vs. Moreshwar Bapuji Hegishti.** In 1884 a book-seller brought out a new and annotated edition of a certain Sanskrit work on religious observances, entitled "Vrtraj" having for that purpose obtained the assistance of Pandits who re-cast and re-arranged the work, introduced various passages from other old Sanskrit books on the same subject, and added foot-notes. In 1885 he (the plaintiff) registered the copyright of this work. In 1886 the defendants printed and published an edition of the same work, the text of which was identical with that of the plaintiff's works, which moreover contained the same additional passages, and the same foot-notes, at the same places, with many slight differences. *Held*, that the plaintiff's work was such a new arrangement of old matter as to be an original work and entitled to protection, and that, as the defendants had not gone to independent sources for their material, but had pirated the plaintiff's work, they must be restrained by injunction. Further that an account of the net profits made by the defendants by the sale of the plaintiff's book could be ordered, notwithstanding the provisions of s. 12 of Act XX of 1847, as the result of the account would be to give to the plaintiff what he could have claimed as damages under that section.

(3) **14 Bom. 586,—Abdur Rahman vs. Mahomed Shirazi.** A person who translates a book into another language is not thereby guilty of an infringement of copyright.

(4) **19 Bom., 557,—MacMillan vs. Shams-ul-Ulama M. Zaka.** The plaintiffs were publishers in London. The defendant carried on a printing and publishing business at Dehli. Between the years 1869 and 1891, the defendant translated English works on Mathematics into Urdu for the use of Indian students, and sold and distributed

copies of such translations in various parts of India. The plaintiffs alleged that they were the proprietors of the copyright in the said books, and they sued in Bombay for declaration of their ownership, and that the said books printed and sold by the defendant were an infringement of the said copyright and for an injunction, etc. It appeared that in June 1894 the plaintiffs' agent, who was then in India, instructed the Bombay firm to order copies of the said translations from the defendant. A letter was accordingly sent to the defendant at Dehli requesting him to send the books to Bombay by value payable post, which the defendant did and he received payment for them from the Post Office at Dehli. The defendant pleaded (*inter alia*) that the High Court of Bombay had^c no jurisdiction, and he denied that he had infringed the plaintiffs' copyright. *Held*, that no part of plaintiffs' cause of action arose in Bombay, and that the High Court of Bombay had no jurisdiction. The act of plaintiffs in paying for and receiving the goods formed no part of the defendant's offence, which was completed when he posted the books at Delhi. The English Copyright (Act 5 and 6 Vic., C. 45) extends to all parts of India. Having regard to s. 15 of that Act, it is clear that a person who infringes copyright must be sued, if he offends in India, not only within the limits of that country, but also in that part of India in which the offence has been committed. *Held*, also, that translations are not copies, and that the defendant, by translating the books, had not infringed the plaintiffs' copyright. The plaintiffs have registered themselves as the proprietors of the copyright of the books in question both in London and in India. The defendant had not given notice of his intention to dispute the plaintiffs' copyright as required by s. 8 of Act XX of 1847. *Held*, that the plaintiffs' copyright in the book had been established.

(5) 17 Cal. 951,—**MacMillan vs. Suresh Chandra Deb.** On the 15th January 1889 the defendant published at Calcutta, a book containing the same selection of poems and songs as was contained in P's book. The arrangement, however, of the defendant's book differed from P's in that the poems of each author were placed together and in order of their composition. In many places there were

differences of reading in the two books, and in more of punctuation. In the defendant's book some of the titles to the poems, which had been assigned thereto by P and not by the original authors, appeared as well as good many of P's notes, some with acknowledgment and some without. With each poem the defendant gave a mass of notes, critical and explanatory, and he also prefixed to the poem of each author a biographical notice. The suit was instituted on the 27th February 1890. and the plaintiffs complained that the publication of defendant's book constituted a breach of their copyright, and prayed for the usual relief by way of injunction and damages. They contended that, although the copyright in the works of the original authors had long lapsed, they were entitled to the copyright in the "selection" made by P. It was contended on behalf of the defendant that there could be no copyright in such a selection; that if any existed, the defendant's book did not infringe it; that the plaintiffs' book being registered as first published in 1861 and the infringement charged being in respect of the edition of 1882, and there being no evidence to show that the same selection was contained in the latter as in the former edition, the plaintiffs were not entitled to the relief prayed for; that the author of the plaintiffs' book being P, in whom the copyright would *prima facie* be, and the property being registered as in the plaintiffs' firm, the registry was bad, as the assignment of the copyright to the plaintiffs' was not shown; that the registration was also bad, as the entry merely contained the name and address of the plaintiffs' firm, and not the individual names and addresses of the partners of the firm; that the publication of the defendant's book having been before the date of registration, the suit would not lie; and that the suit was barred by the special limitation provided by s. 26 of 5 and 6 Vic. c. 45. It was held (1) that such "a selection" could be the subject matter of copyright, the true principle applicable to such cases being that one person is not at liberty to use or avail himself of the labour which another has been at for the purpose of producing his work, and so take away the result of the other's labour, or in other words, his property; (2) that the defendant's book constituted a piracy of the plaintiffs'

book, and had infringed their copyright, and that they were entitled to the relief they sought, and (3) that in the absence of any evidence to the contrary, it was reasonable to assume that successive issues of a book of this kind under the same name are substantially the same book; that it was unnecessary that the registry should show an assignment of the copyright by P to the plaintiffs; that the registration was not bad by reason of the names and addresses of the partners of the firm not being given; that the title to copyright is complete before registration, which is only a condition precedent to the right to sue, and that the plaintiffs had not therefore lost their right of action by reason of the defendant's book being published before theirs was registered; and that, assuming that the rule of limitation provided by s. 26 of the Statute was applicable in this country, this suit was not barred by limitation.

(6) **8 B. L. R., 298,—Baker *vs.* Sutherland.** A registered proprietor of the copyright of an ornamental design within the United Kingdom, under 5 & 6 Vic. c. 100 (amended by 6 & 7 Vic., c. 65; 13 & 14. Vic., c. 104; and 21 and 22 Vic., c. 70) cannot sustain an action against any person who applies such design to articles, or who sells any articles to which such design has been applied in British Burma.

(8) **33 All 24,—Peara Lal *vs.* Ram Kishan.** A suit to recover damages for infringement of copyright does not lie in the court within the jurisdiction of which the plaintiff, but not the defendant, resides. Neither is the possessor of a pirated copy of a copyrighted work bound to deliver it to the owner of the copyright wherever he (the owner) may happen to reside.

(9) **95 P. L. R 1910. Girdhari Lal *vs.* Devi Dial.** In a suit for injunction on the ground for infringement of plaintiff's copyright in an almanac published by him, it was found that tables given in the parties' almanacs tallied except as regards minutes and seconds, that the calculations were admitted worked out on what are known as Makrand and that there were other almanacs which resembled the defendants'. *Held* that these findings were not sufficient to establish piracy on the part of the defendants. *Held* also, that the fact that

in previous years the defendants obtained information for their almanacs from plaintiff on payment of money did not affect the case. The weakness of the defence does not make up for want of proof of the allegation of the plaintiff.

(10) **J. C. Chaudhuri vs. Mohim Chand Roy.**—Reported in the **Statesman [5th June 1914]**. At the High Court on the 4th June 1914, Mr. Justice Imam delivered judgment in the suit brought by Mr. Jogesh Chandra Chaudhuri, Bar-at-law, against Babu Mohim Chander Roy and another. The first defendant was the proprietor, editor and publisher of a rival periodical known as the "Calcutta Case Law." The second defendant was a company of printers. The suit was to restrain the defendants from committing literary piracy on the plaintiff's periodical, for an account of the profits made by the first defendant by the sale of the piratical issues of the "Calcutta Case Law," for damages and for consequential relief. The plaintiff's case was that the reports of the decisions of this Court as well as of the Judicial Committee of the Privy Council published in the "Calcutta Weekly Notes" were the result of considerable labour and expense on his part as well as on the part of the staff employed by him and that in the report he had an exclusive copyright. He complained that the defendants had been systematically pirating the reports of the cases from the "Calcutta Weekly Notes" and printing and publishing the same in the "Calcutta Case Law". In the Schedule of the plaint some of the instances of the piracy had been set out and a comparison of the reports of the "Calcutta Weekly Notes" with those in the "Calcutta Case Law" established the facts of the latter producing the reports of the former with a degree of faithfulness that left no room for the doubt that the defendants had availed themselves of the benefits of the plaintiff's labours. The second defendant gave an undertaking that he would not any more print the piratical edition. The first defendant contested, and the suit proceeded on the contest of the latter only. The contesting defendant complained that the plaintiff could have no copyright in the reports of judgment of any court of law and denied the alleged piracy. It was generally true that in the reports of judgments

the reporter had no copyright, but his lordship was not prepared to say that in the selection of cases and in the arrangement of the reporting the reporter was without the protection of law. Had the contesting defendant restricted himself to reporting the judgments only he might not be liable to the plaintiff ; but what had happened in the present case was that the defendant had freely drawn all such portions of the plaintiff's reports as formed no part of the judgments. He had also taken from the plaintiff's reports the quotations from judgments that were appropriated to the reports. The plaintiff's reports in many instances contained statements of facts not to be found in the judgments, but gathered by his reporters from the records of the cases. The defendant no doubt was at liberty to bestow his own labour on collecting the facts for himself, but he was not entitled to avail himself of the labours of others.

His lordship had no doubt in this case that the contesting defendant had committed literary piracy on the plaintiff's periodical and in that view the suit was to be decreed.

The result was that the plaintiff succeeded and the defendants were to be restrained from pirating from the "Calcutta Weekly Notes" for the publication. They were further restrained from selling or circulating any of the copies of the printed publication since August 1904. The defendant no. 1 was directed to render a full account to the plaintiff of the pirated issues of the "Calcutta Case Law" published since August 1910 and of the profits made by their sale. He was further directed to deliver in Court the unsold copies of the pirated edition of the "Calcutta Case Law" published since August 1910 and the same were ordered to be destroyed. The defendant no. I was directed to pay to the plaintiff costs of this suit on scale no. II. The second defendant was directed to pay the plaintiff's costs on scale no. II up to December 1st, 1913. So far as the motion was concerned no order was necessary except one for costs. The first defendant was ordered to pay to the plaintiff the costs of this motion.

STATEMENT OF OBJECTS AND REASONS.—*Dated 30th
July, 1913.*

The question of the amendment of the Indian Copyright Act (XX of 1847) has been considered on several occasions since 1864 on the ground that the Act was incomplete and did not provide, among other matters, for the protection of copyright in photographs, translations, newspapers, telegrams, etc. Legislation, however, has been postponed in view of the possibility of an amendment of the English Acts on the subject of copyright.

2. In 1908 a Conference and Convention, to which Great Britain was a party, was held in Berlin with the object of bringing the domestic laws of all countries concerned into harmony with one another so as to obtain international uniformity of treatment and the ratification of that Convention involved certain changes in the English law. Its provisions were examined by a strong departmental committee appointed by the Board of Trade which came to the unanimous conclusion that the Berlin convention should be accepted by Great Britain with as few reservations as possible.

3. An Imperial Copyright Conference was subsequently convened in 1910 containing representations of the self-governing dominions and of the India* Office, Colonial Office, etc. It endorsed the recommendation of the Board of Trade Committee and recommended that an Act dealing with the essentials of Imperial Copyright Law should be passed by the Imperial Parliament and that this Act should be expressed to extend to all British possessions subject to the rights of self-governing dominions and possessions to modify or add to its provisions by legislation in certain cases affecting only procedure and remedies.

4. A draft Bill was approved by the Conference and eventually passed into law as the Copyright Act, 1911 (1 and 2 Geo. 5, Ch. 46), which came into operation in the United Kingdom on 1st July 1912.

5. The important changes in the Act are—

- (i) The abolition of the formality of registration of copyright.
- (ii) The extension of the term of copyright from forty-two years to one of life and fifty years subject to certain conditions.
- (iii) The extension of the scope of copyright.
- (iv) The substitution of one Act for several on the subject of copyright.

6. The Government of India considered that the early introduction of the Act into India was desirable both for Imperial and International as well as domestic reasons and consulted Local Government in regard to the modifications and additions referred to in section 27 of the Act that might be necessary to suit the special conditions of India. In view, however, of difficulties that were experienced in England through the non-proclamation in India of the Act of 1911 and having regard to the serious hardship and loss which might thereby be inflicted on English authors, the Act was brought into force in India by proclamation in the Gazette of India on the 31st October 1912, under section 37 (2) (d) of the Act, the question of modifications or additions being postponed for subsequent consideration on receipt of the views of Local Governments. These are in substantial agreement with those of the Government of India who propose by virtue of the powers conferred by section 27 of the Act of 1911 to pass the draft Bill which embodies the modifications in, and additions to, the Act which are considered desirable, together with certain formal and necessary alterations due to the difference between English and Indian administration and procedure.

7. It will be observed that the changes proposed are as few as possible in view of the desirability of securing that uniformity throughout the empire which was advocated by the Imperial Copyright Conference of 1910.

8. Clause 3.—This contains purely formal modifications necessary for the application of the Act of 1911 to British India.

9. Clause 4.—Under sections 1-3 of the Act of 1911, the term for which copyright subsists in translations is the life of the author and a period of fifty years after his death.

10. The special linguistic conditions of India render desirable a substantial relaxation of the above provision. The languages spoken in India are so numerous and differ so widely that the conditions which prevail cannot be compared with those in most European countries, and vernacular translations from English and from one vernacular to another are not only common but serve the useful purpose of disseminating knowledge. It is proposed, therefore, that translations of works first published in British India should be permitted after the expiry of five years from the date of first publication, provided that two years' notice of the intention to publish a translation has been given to the author.

11. This proposal is considered to be a sufficient safeguard of, and a reasonable compromise between, rights of the author and those of the public.

12. Clause 5.—The provisions of section 19 of the Act of 1911 are new and in view of the peculiar conditions of Indian music objections have been urged against the application of this section *in toto* to Indian works. It is pointed out that it is impossible in most cases to identify the original composer or author and that the majority of Indian melodies have not been written in staff notation except through the medium of the phonograph and are subject to infinite variety of notation and tune. If, under these circumstances, section 19 is adopted with its retro-active principal there may be fictitious claims of ownership in musical works and much confusion and undesirable litigation. To make it clear that in order to fall within the definition of "musical work" music must have been graphi-

cally represented it is proposed to adopt *mutatis mutandis* the definition of the term "musical work", contained in the English Musical Copyright Act, 1902, *viz.*, "musical work means any combination of melody and harmony or either of them printed, reduced to writing."

13. Clause 6.—Section 18 (a) of the Sea Customs Act, 1878, prohibits importation in the case of books alone, the copyright whereof subsists in India. In view of the extension of Act of 1911, to works other than books and the difference in procedure it is proposed to repeal this section and enact the appropriate provisions as the necessary modifications referred to in section 14 (7) of the Act of 1911.

14. Clauses 7-12.—The provisions of section 11 of the Act of 1911 have been in the main adopted. Imprisonment, however, will in all cases be simple, and offences will be triable by a Magistrate of the first class only. It is proposed to convert the amount of English fines on the basis of £1=Rs. 10, in accordance with the usual practice, and to insert a clause exempting the case of infringement by the construction of a building from the operation of summary remedies, thus giving effect to the similar exemption provided by section 9 of the English Act.

15. Clause 13.—On account of the technicalities of the subject of copyright, and of the greater finality that such a tribunal will afford, it has been considered advisable to give jurisdiction to High Courts only in all suits or civil proceedings regarding infringement of copyright.

16. Clause 14.—This clause which is self-explanatory has been added in view of a recent decision in *Evans v. Morris*, reported in the Law Journal of 29th March 1913.

[NOTE.—The above paragraphs have been numbered for the sake of convenience.]

Select Committee's Report, Dated 4th February, 1914

* * * * *

2. We have amended clause 3 of the Bill in two respects. In the first place, we have deleted sub-clause (2) which provided that the reference to the Judicial Committee in section 4 of the Copyright Act should be read in relation to works first published in British India as a reference to Governor-General in Council, as we consider that it is desirable that the power under this section should be exercised by one authority throughout the Empire. Secondly, we have amplified sub-clause (4) so as to provide that all references to arbitration in sub-section (1) of section 24 of the Act shall be read as references to arbitration in accordance with the law in force in British India.

3. We have modified clause 4 of the Bill in various particulars. We think that the period of copyright as regards translations which is prescribed by the Bill for works first published in British India, is too short and we have, therefore, altered it from five to ten years and have deleted the provisions which required the issue of notice upon an author before the production of a translation by any other person. We have however provided that, if within this period of ten years the author himself publishes a translation of the work in any particular language, the limitation upon copyright prescribed by this clause shall not apply to translation into the particular language. This amendment is in accordance with the provisions of the Berne Convention. We have added a sub-clause to secure the rights of legal representatives of deceased authors.

4. We have substituted the word 'penalties' for the words "summary remedies" in the title of Chap. III in view of the fact that the expression "summary trial" is used in the Code of Criminal Procedure, 1898, to denote a particular procedure in the trial of cases, which might not be applicable to cases under this chapter.

5. We have provided for an appeal against orders of a magistrates regarding the disposal of copies and plates

which infringe copyright and have authorised the appellate Court to stay execution of such orders pending consideration of the appeal.

6. In view of the fact that suits relating to infringement of copyright are sometimes of a petty nature, we have given the High Court and the District Judge concurrent jurisdiction in civil suits and proceedings under the Act. It has been pointed out to us that the provisions of clause 13 of the Bill as introduced might cause unnecessary inconvenience and expense in many cases.

* * * * *

ACT NO. III OF 1914.—[24th February 1914.]

An Act to modify and add to the provisions of the Copyright Act, 1911.

Whereas it is expedient to modify and add to the provisions of the Copyright Act, 1911,
 1 & 2 Geo. 5, c. 46. in its application to British India; It is hereby enacted as follows:—

CHAPTER I.—PRELIMINARY.

Short title and extent. 1. (1) This Act may be called the Indian Copyright Act, 1914.

(2) It extends to the whole of British India including British Baluchistan, the District of Angul and the Sonthal Parganas.

Definitions. 2. In this Act, unless there is anything repugnant in the subject or context,—

(1) “the Copyright Act” means the Act of Parliament entitled the Copyright Act, 1911
 1 & 2, Geo. 5, c. 46. and

(2) words and expressions defined in the Copyright Act have the same meanings as in that Act.

CHAPTER II.—CONSTRUCTION AND MODIFICATION OF THE COPYRIGHT ACT.

3. In the application to British India of the Copyright Act, (a copy of which Act, except such of the provisions thereof as are expressly restricted to the United Kingdom, is set out in the First Schedule), the following modifications shall be made, namely :—

(1) the powers of the Board of Trade under section 3 shall, in the case of works first published in British India, be exercised by the Governor-General in Council;

(2) the powers of the Board of Trade under section 19 shall, as regards records, perforated rolls and other contrivances, the original plate of which was made in British India, be exercised by the Governor-General in Council, and the confirmation of Parliament shall not be necessary to the exercise of any of these powers;

(3) the references in section 19, sub-section (4), and in section 24, sub-section (1), to arbitration shall be read as references to arbitration in accordance with the law for the time being in force in that part of British India in which the dispute occurs;

(4) as regards works the authors whereof were at the time of the making of the works resident in British India, and as regards works first published in British India, the reference in section 22 to the Patents and Designs Act, 1907, shall be construed as a reference to the Indian

Patents and Designs Act, 1911, and the reference in the said section to section 86 of the Patents and Designs Act, 1907, shall be construed as a reference to section 77 of the Indian Patents and Designs Act, 1911 ;

(5) as regards works first published in British India, the reference in section 24, sub-section (1), proviso (a), to the London Gazette and two London newspapers shall be construed as a reference to the Gazette of India and two newspapers published in British India, and the reference in proviso (b) of the same sub-section of the same section to the 26th day of July, 1910, shall, as regards works the authors whereof were at the time of the making of the works resident in British India, and as regard works first published in British India, be construed as a reference to the 30th day of October, 1912.

4 (1) In the case of works first published in British India, copyright shall be subject to this limitation that the sole right to produce, reproduce, perform or publish a translation of the work shall subsist only for a period of ten years from the date of the first publication of the work .

Modification of copyright as regards translation of works first published in British India

Provided that if within the said period the author, or any person to whom he has granted permission so to do, publishes a translation of any such work in any language, copyright in such work as regards the sole right to produce, reproduce, perform or publish a translation in that language shall not be subject to the limitation prescribed in this sub-section.

(2) For the purposes of sub-section (1) the expression "author" includes the legal representative of a deceased author.

5. In the application of the Copyright Act to musical works the authors whereof were at the time of the making of the works resident in British India, or to musical works first published in British India, the term "musical work" shall, save as otherwise expressly provided by the Copyright Act, mean "any combination of melody and harmony, or either of them, which has been reduced to writing."

6. (1) Copies made out of British India of any work in which copyright subsists which if made in British India would infringe copyright, and as to which the owner of the copyright gives notice in writing by himself or his agent to the Chief Customs Officer, as defined in the Sea Customs Act, 1878, that he is desirous that such copies should not be imported into British India, shall not be so imported, and shall, subject to the provisions of this section, be deemed to be prohibited imports within the meaning of section 18 of the Sea Customs Act, 1878.

(2) Before detaining any such copies, or taking any further proceedings with a view to the confiscation thereof, such Chief Customs Officer, or any other officer appointed by the Local Government in this behalf may require the regulations under this section, whether as to information, security, conditions or other matters, to be complied with, and may satisfy himself, in accordance with these regu-

lations, that the copies are such as are prohibited by this section to be imported.

(3) The Governor General in Council may, by notification in the Gazette of India, make regulations, either general or special, respecting the detention and confiscation of copies the importation of which is prohibited by this section, and the conditions, if any, to be fulfilled before such detention and confiscation ; and may, by such regulations, determine the information, notices and security to be given, and the evidence requisite for any of the purposes of this section, and the mode of verification of such evidence.

(4) Such regulations may apply to copies of all works the importation of copies of which is prohibited by this section, or different regulations may be made respecting different classes of such works.

(5) The regulations may provide for the informant re-imbursing the Secretary of State for India in Council all expenses and damages incurred in respect of any detention made on his information, and of any proceedings consequent on such detention ; and may provide that notices given under the Copyright Act to the Commissioners of Customs and Excise of the United Kingdom, and communicated by that authority to any authority in British India, shall be deemed to have been given by the owner to the said Chief Customs Officer.

6. This section shall have effect as the necessary modification of section 14 of the Copyright Act.

CHAPTER III.—PENALTIES.

Offences in respect of
infringing copies.

7. If any person knowingly—

- (a) makes for sale or hire any infringing copy of a work in which copyright subsists ; or
- (b) sells or lets for hire, or by way of trade exposes or offers for sale or hire, any infringing copy of any such work ; or
- (c) distributes infringing copies of any such work, either for the purposes of trade or to such an extent as to affect prejudicially the owner of the copyright ; or
- (d) by way of trade exhibits in public any infringing copy of any such work ; or
- (e) imports for sale or hire into British India any infringing copy of any such work ;

he shall be punishable with fine which may extend to twenty rupees for every copy dealt with in contravention of this section, but not exceeding five hundred rupees in respect of the same transaction.

NOTES.

(1) **22 Bom. L. R. 808,—Vasudev vs. Anupram.** The fine Arts Copyright Act, (25 and 26 Vic., c. 68)—[repealed] does not extend to any part of the British Dominions outside the United Kingdom

(2) **13 A. L. J. 636,—Hiralal vs. Saraswati** Though copyright might not include translation, the author of a book, who made a translation of it is entitled to copyright in it as it were an original work.

(3) **18 C. W. N. 1078,—Jogesh Chandra vs. Mohim Chandra.** A plaintiff's copyright is infringed when the defendant reproduced not only the judgments but also the parts of plaintiffs reports not

forming parts of judgments, and extracts and facts collected by the plaintiff from the records of cases. The reporter has no copyright in the reports of judgment but he has the protection of the law in selecting and reporting cases which he obtains by expenditure of time, labour and money. [See also note (10), on pages 22-23.]

(4) **28 P. R. 1918 Cr.,—Kalidas *vs.* Karam Chand.** The offence is complete as soon as the book infringing the copyright is printed and the consequences contemplated in s. 179, Cr. P. C., are not necessary for the completion of the offence.

(5) **38 All. 484,—Muhammad Abdul Jalil *vs.* Ram Dayal.** A member of a Board of Studies who prepares a Syllabus of studies at the request of the Board which is afterwards published with alteration by the Board for the information of the public, has by his action in submitting unreservedly the results of his labour before the Board, gives up any right to copyright in the publication. Where a person does a literary work (at request) for another with full knowledge that the latter will publish them as a matter of course, and the latter publishing the same *brushing* aside the desire of the plaintiff that he should be allowed the copyright for the work or that he should be suitably remunerated for the same, the publication amounts to complete waiver by the latter person of whatever rights he may have had in the work in the interests of the general public.

(6) **Girdhari Lal *vs.* Devi Dial.** (See note (9) on page 22.)

89 M. L. J. 341,—Ramiah *v.* Chidambaram. The author of certain songs composed in Tamil and sold the right to publish and sell them and receive the purchase money therefor, but undertook to make corrections and revise the songs before publication. The author subsequently sold the same songs once again surreptitiously to a third person for consideration. *Held*, the first-purchaser acquired a valid title to the composition and was entitled to restrain the author and his subsequent purchaser from infringing his right therein by publishing and selling any of the songs purchased by him and to damages from the author.

8 If any person knowingly makes, or has in his possession, any plate for the purpose of making or infringing copies of any work in which copyright subsists, or knowingly and for his private profit causes any such work to be performed in public without the consent of the owner of the copyright, he shall be punishable with fine which may extend to five hundred rupees.

Possession of plates for purpose of making infringing copies.

9. If any person, after having been previously convicted of an offence punishable under section 7 or section 8 is subsequently convicted of an offence punishable under either of these sections, he shall be punishable with simple imprisonment which may extend to one month, or with fine which may extend to one thousand rupees, or with both.

Punishment on second conviction.

10. (1) The Court before which any offence under this Chapter is tried may, whether the alleged offender is convicted or not, order that all copies of the work or all plates in the possession of the alleged offender, which appear to it to be infringing copies, or plates for the purpose of making infringing copies, be destroyed or delivered up to the owner of the copyright or otherwise dealt with as the Court may think fit.

Power of Court to dispose of infringing copies or plates for purpose of making infringing copies.

(2) Any person affected by an order under sub-section (1) may, within thirty days of the date of such order, appeal to the Court to which appeals from the Court making the order ordinarily lie; and such appellate Court

may direct that execution of the order be stayed pending consideration of the appeal.

11. No Court inferior to that of a Presidency Magistrate or a Magistrate of the first class.
Cognizance offences, shall try any offence against this Act.

12. The provisions of this Chapter shall not apply to any case to which section 9 of the Copyright Act, regarding the restrictions on remedies in the case of a work of architecture; applies.
Saving in case of infringement by construction of building.

CHAPTER IV.—MISCELLANEOUS.

13. Every suit or other civil proceeding regarding infringement of copyright shall be instituted and tried in the High Court or the Court of the District Judge.
Courts having civil jurisdiction regarding infringement of copyright.

14. No suit or other civil proceeding instituted after the 30th of October, 1912, regarding infringement of copyright in any book the author whereof was at the time of making the book resident in British India, or of any book first published in British India, shall be dismissed by reason only that the registration of such book had not been effected in accordance with the provisions of the Indian Copyright Act, 1847.
Effect of non-registration under Act XX of 1847.

15. The enactments mentioned in the Second Schedule are hereby repealed to the extent specified in the fourth column thereof.
Repeals.

(THE FIRST SCHEDULE).—PORTIONS OF COPYRIGHT ACT
APPLICABLE TO BRITISH INDIA.—(See section 3.)

COPYRIGHT ACT, 1911. [1 & 2 GEO. 5, CH. 46.]

ARRANGEMENT OF SECTIONS.

PART I.—IMPERIAL COPYRIGHT.—*Rights.*

SECTIONS.

1. Copyright.
2. Infringement of copyright.
3. Term of copyright.
4. Compulsory licences.
5. Ownership of copyright, etc.

Civil Remedies.

6. Civil remedies for infringement of copyright.
7. Rights of owner against persons possessing or dealing with infringing copies, etc.
8. Exemption of innocent infringer from liability to pay damages, etc.
9. Restriction on remedies in the case of architecture.
10. Limitation of actions.
- 11—13.

Importation of Copies

14. Importation of copies.

Delivery of Books to Libraries.

15. Delivery of copies to British Museum and other libraries.

Special Provisions as to certain Works.

16. Works of joint authors.
17. Posthumous works.
18. Provisions as to Government publications.
19. Provisions as to mechanical instruments.
20. Provision as to political speeches.
21. Provisions as to photographs.
22. Provisions as to designs registrable under 7 Edw. 7, C. 29.
23. Works of foreign authors first published in parts of His Majesty's dominions to which Act extends.
24. Existing works.

Application to British Possessions.

SECTIONS.

25. Application of Act to British dominions.
26. Legislative powers of self-governing dominions.
27. Power of Legislatures of British possessions to pass supplemental legislation.
28. Application to protectorates.

PART II.—INTERNATIONAL COPYRIGHT.

29. Power to extend Act to foreign works.
30. Application of Part II to British possessions.

PART III.—SUPPLEMENTAL PROVISIONS.

31. Abrogation of common law rights.
32. Provisions as to Orders in Council.
33. Saving of university copyright.
34. Saving of compensation to certain libraries.
35. Interpretation.
36. Repeal.
37. Short title and commencement.

SCHEDULES.

CHAPTER 46.

AN ACT TO AMEND AND CONSOLIDATE THE LAW
RELATING TO COPYRIGHT.—[16TH DECEMBER, 1911.]

Be it enacted by the King's Most Excellent Majesty; by and with the advice and consent of the Lords Spiritual and Temporal, and Commons in this present Parliament assembled, and by the authority of the same, as follows:—

PART I.—IMPERIAL COPYRIGHT.—*Rights.*

1. (1) Subject to the provisions of this Act, copyright shall subsist throughout the parts of His Majesty's dominions to which this Act extends for the term hereinafter mentioned in every original literary dramatic musical and artistic work, if—

(a) in the case of a published work, the work was first published within such parts of His Majesty's dominions as aforesaid; and

(b) in the case of an unpublished work, the author was at the date of the making of the work a British subject or resident within such parts of His Majesty's dominions as aforesaid;

but in no other works, except so far as the protection conferred by this Act is extended by Orders in Council thereunder relating to self-governing dominions to which this Act does not extend and to foreign countries.

(2) For the purposes of this Act, "copyright" means the sole right to produce or reproduce the work or any substantial part thereof in any material form whatsoever, to perform, or in the case of a lecture to deliver, the work or any substantial part thereof in public; if the work is unpublished, to publish the work or any substantial part thereof; and shall include the sole right—

(a) to produce, reproduce, perform, or publish any translation of the work;

(b) in the case of a dramatic work, to convert it into a novel or other non-dramatic work;

(c) in the case of a novel or other non-dramatic work, or of an artistic work, to convert it into a dramatic work, by way of performance in public or otherwise;

(d) in the case of a literary dramatic or musical work, to make any record, perforated roll, cinematograph film, or other contrivance by means of which the work may be mechanically performed or delivered;

and to authorise any such acts as aforesaid.

(3) For the purposes of this Act, publication, in relation to any work, means the issue of copies of the work to the public, and does not include the performance in public of a dramatic or musical work, the delivery in public of a lecture, the exhibition in public of an artistic work, or

the construction of an architectural work of art, but, for the purposes of this provision, the issue of photographs and engravings of works of sculpture and architectural works of art shall not be deemed to be publication of such works.

2. (1) Copyright in a work shall be deemed to be infringed by any person who, without the consent of the owner of the copyright, does anything the sole right to do which is by this Act conferred on the owner of the copyright: Provided that the following acts shall not constitute an infringement of copyright:—

Infringement of copy-
right.

(i) Any fair dealing with any work for the purposes of private study, research, criticism, review, or newspaper summary :

(ii) Where the author of an artistic work is not the owner of the copyright therein, the use by the author of any mould, cast, sketch, plan, model, or study made by him for the purpose of the work, provided that he does not thereby repeat or imitate the main design of that work :

(iii) The making or publishing of paintings, drawings, engravings, or photographs of a work of sculpture or artistic craftsmanship, if permanently situate in a public place or building, or the making or publishing of paintings, drawings, engravings or photographs (which are not in the nature of architectural drawings or plans) of any architectural work of art :

(iv) the publication in a collection, mainly composed of non-copyright matter, *bona fide* intended for the use of schools, and so described in the title and in any advertisements issued by the publisher, of short passages from published literary works not themselves published for the use of schools in which copyright subsists: Provided that not more than two of such passages from works by the same author or published by the same publisher within five

years, and that the source from which such passages are taken is acknowledged :

(v) The publication in a newspaper of a report of a lecture delivered in public, unless the report is prohibited by conspicuous written or printed notice affixed before and maintained during the lecture at or about the main entrance of the building in which the lecture is given, and, except whilst the building is being used for public worship, in a position near the lecturer; but nothing in this paragraph shall affect the provisions in paragraph (i) as to newspapers' summaries :

° (vi) The reading or recitation in public by one person of any reasonable extract from any published work.

(2) Copyright in a work shall also be deemed to be infringed by any person who—

(a) sells or lets for hire, or by way of trade exposes or offers for sale or hire; or

(b) distributes either for the purposes of trade or to such an extent as to affect prejudicially the owner of the copyright; or

(c) by way of trade exhibits in public; or

(d) imports for sale or hire into any part of His Majesty's dominions to which this Act extends, any work which to his knowledge infringes copyright or would infringe copyright if it had been made within the part of of His Majesty's dominions in or into which the sale or hiring, exposure, offering for sale or hire, distribution, exhibition, or importation took place.

(3) Copyright in a work shall also be deemed to be infringed by any person who for his private profit permits a theatre or other place of entertainment to be used for the performance in public of the work without the consent of the owner of the copyright, unless he was not aware, and had no reasonable ground for suspecting, that the performance would be an infringement of copyright.

3. The term for which copyright shall subsist shall, except as otherwise expressly provided by this Act, be the life of the author and a period of fifty years after his death :

Term of copyright.

Provided that at any time after the expiration of twenty-five years, or in the case of a work in which copyright subsists at the passing of this Act thirty years, from the death of the author of a published work, copyright in the work shall not be deemed to be infringed by the reproduction of the work for sale if the person reproducing the work proves that he has given the prescribed notice in writing of his intention to reproduce the work, and that he has paid in the prescribed manner to, or for the benefit of, the owner of the copyright royalties in respect of all copies of the work sold by him calculated at the rate of ten per cent on the price at which he publishes the work ; and, for the purposes of this proviso, the Board of Trade may make regulations prescribing the mode in which notices are to be given, and the particulars to be given in such notices, and the mode, time and frequency of the payment of royalties, including (if they think fit) regulations requiring payment in advance or otherwise securing the payment of royalties.

4. If, at any time after the death of the author of a literary dramatic or musical work which has been published or performed in public, a complaint is made to the Judicial Committee of the Privy Council that the owner of the copyright in the work has refused to republish or to allow the republication of the work or has refused to allow the performance in public of the work, and that by reason of such refusal the work is withheld from the public, the owner of the copyright may be ordered to grant a licence to reproduce the work or perform the work in public, as the case may be, on such terms and subjects to such conditions as the Judicial Committee may think fit.

5. (1) Subject to the provisions of this Act, the author of a work shall be the first owner of the copyright therein :
 Ownership of copy-right, etc.

Provided that—

(a) where, in the case of an engraving, photograph, or portrait, the plate or other original was ordered by some other person and was made for valuable consideration in pursuance of that order, then, in the absence of any agreement to the contrary, the person by whom such plate or other original was ordered shall be the first owner of the copyright ;

(b) where the author was in the employment of some other person under a contract of service or apprenticeship and the work was made in the course of his employment by that person, the person by whom the author was employed shall, in the absence of any agreement to the contrary, be the first owner of the copyright, but where the work is an article or other contribution to a newspaper, magazine, or similar periodical, there shall, in the absence of any agreement to the contrary, be deemed to be reserved to the author a right to restrain the publication of the work, otherwise than as part of a newspaper, magazine, or similar periodical.

(2) The owner of the copyright in any work may assign the right, either wholly or partially, and either generally or subject to limitations to the United Kingdom or any selfgoverning dominion or other part of His Majesty's dominions to which this Act extends, and either for the whole term of the copyright or for any part thereof, and may grant any interest in the right by licence, but no such assignment or grant shall be valid unless it is in writing signed by the owner of the right in respect of which the assignment or grant is made, or by his duly authorised agent :

Provided that, where the author of a work is the first owner of the copyright therein, no assignment of the copyright, and no grant of any interest therein, made by

him (otherwise than by will) after the passing of this Act, shall be operative to vest in the assignee or grantee any rights with respect to the copyright in the work beyond the expiration of twenty-five years from the death of the author, and the reversionary interest in the copyright expectant on the termination of that period shall, on the death of the author, notwithstanding any agreement to the contrary, devolve on his legal personal representatives as part of his estate, and any agreement entered into by him as to the disposition of such reversionary interest shall be null and void, but nothing in this proviso shall be construed as applying to the assignment of the copyright in a collective work or a licence to publish a work or part of a work as part of a collective work.

(3) Where, under any partial assignment of copyright, the assignee becomes entitled to any right comprised in copyright, the assignee, as respects the rights so assigned, and the assignor, as respects the rights not assigned, shall be treated for the purposes of this Act as the owner of the copyright, and the provisions of this Act shall have effect accordingly.

Civil Remedies.

6. (1) Where copyright in any work has been infringed, the owner of the copyright shall, Civil remedies for infringement of copyright. except as otherwise provided by this Act, be entitled to all such remedies by way of injunction or interdict, damages, accounts, and otherwise, as are or may be conferred by law for the infringement of a right.

(2) The costs of all parties in any proceedings in respect of the infringement of copyright shall be in the absolute discretion of the Court.

(3) In any action for infringement of copyright in any work, the work shall be presumed to be a work in which copyright subsists and the plaintiff shall be presumed to be the owner of the copyright, unless the defendant

put in issue the existence of the copyright, or, as the case may be, the title of the plaintiff, and where any such question is in issue, then—

(a) if a name purporting to be that of the author of the work is printed or otherwise indicated thereon in the usual manner, the person whose name is so printed or indicated shall, unless the contrary is proved, be presumed to be the author of the work ;

(b) if no name is so printed or indicated, or if the name so printed or indicated is not the author's true name or the name by which he is commonly known, and a name purporting to be that of the publisher or proprietor of the work is printed or otherwise indicated thereon in the usual manner, the person whose name is so printed or indicated shall, unless the contrary is proved, be presumed to be the owner of the copyright in the work for the purposes of proceedings in respect of the infringement of copyright therein.

7. All infringing copies of any work in which copyright subsists, or of any substantial part thereof, and all plates used or intended to be used for the production of such infringing copies, shall be deemed to be the property of the owner of the copyright, who accordingly may take proceedings for the recovery of the possession thereof or in respect of the conversion thereof.

8. Where proceedings are taken in respect of the infringement of the copyright in any work and the defendant in his defence alleges that he was not aware of the existence of the copyright in the work, the plaintiff shall not be entitled to any remedy other than an injunction or interdict in respect of the infringement if the defendant proves that at the date of the infringement he was not aware, and had not reasonable ground for suspecting, that copyright subsisted in the work.

9. (1) Where the construction of a building or other structure which infringes or which, if completed, would infringe the copyright in some other work has been commenced, the owner of the copyright shall not be entitled to obtain an injunction or interdict to restrain the construction of such building or structure or to order its demolition.

(2) Such of the other provisions of this Act as provide that an infringing copy of a work shall be deemed to be the property of the owner of the copyright, or as impose summary penalties, shall not apply in any case to which this section applies.

10. An action in respect of infringement of copyright shall not be commenced after the expiration of three years next after the infringement.

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Importation of Copies.

14. (1) Copies made out of the United Kingdom of any work in which copyright subsists which if made in the United Kingdom would infringe copyright, and as to which the owner of the copyright gives notice in writing by himself or his agent to the Commissioners of Customs and Excise, that he is desirous that such copies should not be imported, into the United Kingdom, shall not be so imported and shall, subject to the provisions of this section, be deemed to be included in the table of prohibitions and restrictions contained in section forty-two of the Customs Consolidation Act, 1876, and that section shall apply accordingly.

(2) Before detaining any such copies or taking any further proceedings with a view to the forfeiture thereof

under the law relating to the Customs, the Commissioners of Customs and Excise may require the regulations under this section, whether as to information, conditions, or other matters, to be complied with, and may satisfy themselves in accordance with those regulations that the copies are such as are prohibited by this section to be imported.

(3) The Commissioners of Customs and Excise may make regulations, either general or special, respecting the detention and forfeiture of copies the importation of which is prohibited by this section, and the conditions, if any, to be fulfilled before such detention and forfeiture, and may, by such regulations, determine the information, notices, and security to be given, and the evidence requisite for any of the purposes of this section, and the mode of verification of such evidence.

(4) The regulations may apply to copies of all works the importation of copies of which is prohibited by this section, or different regulations may be made respecting different classes of such works.

(5) The regulations may provide for the informant reimbursing the Commissioners of Customs and Excise all expenses and damages incurred in respect of any detention made on his information, and of any proceedings consequent on such detention; and may provide for notices under any enactment repealed by this Act being treated as notices given under this section.

(6) The foregoing provisions of this section shall have effect as if they were part of the Customs Consolidation Act, 1876: Provided that, notwithstanding anything in that Act, the Isle of Man shall not be treated as part of the United Kingdom for the purposes of this section.

(7) This section shall, with the necessary modifications, apply to the importation into a British possession to which this Act extends of copies of works made out of that possession.

Delivery of Books to Libraries.

15. (1) The publisher of every book published in the United Kingdom shall, within one month after the publication, deliver, at his own expense, a copy of the book to the trustees of the British Museum, who shall give a written receipt for it.

(2) He shall also, if written demand is made before the expiration of twelve months after publication, deliver within one month after receipt of that written demand or, if the demand was made before publication, within one month after publication, to some depot in London named in the demand a copy of the book for, or in accordance with the directions of, the authority having the control of each of the following libraries, namely: the Bodleian Library, Oxford, the University Library, Cambridge, the Library of the Faculty of Advocates at Edinburgh, and the Library of Trinity College, Dublin; and, subject to the provisions of this section, the National Library of Wales. In the case of an encyclopædia, newspaper, review, magazine, or work published in a series of numbers or parts, the written demand may include all numbers or parts of the work which may be subsequently published.

(3) The copy delivered to the trustees of the British Museum shall be a copy of the whole book with all maps and illustrations belonging thereto finished and coloured in the same manner as the best copies of the book are published, and shall be bound, sewed, or stitched together, and on the best paper on which the book is printed.

(4) The copy delivered for the other authorities mentioned in the section shall be on the paper on which the largest number of copies of the book is printed for sale, and shall be in the like condition as the books prepared for sale.

(5) The books of which copies are to be delivered to the National Library of Wales shall not include books of

such classes as may be specified in regulations to be made by the Board of Trade.

(6) If a publisher fails to comply with this section, he shall be liable on summary conviction to a fine not exceeding five pounds and the value of the book, and the fine shall be paid to the trustees or authority to whom the book ought to have been delivered.

(7) For the purposes of this section, the expression "book" includes every part or division of a book, pamphlet, sheet, or letter-press, sheet of music, map, plan, chart or table separately published, but shall not include any second or subsequent edition of a book unless such edition contains additions or alterations either in the letter-press or in the maps, prints, or other engravings belonging thereto.

Special Provisions as to certain Works.

16. (1) In the case of a work of joint authorship, copyright shall subsist during the life of the author who first dies and for a term of fifty years after his death, or during the life of the author who dies last, whichever period is the longer, and references in this Act to the period after the expiration of any specified number of years from the death of the author shall be construed as references to the period after the expiration of the like number of years from the death of the author who dies first or after the death of the author who dies last, whichever period may be the shorter, and in the provisions of this Act with respect to the grant of compulsory licences a reference to the date of the death of the author who dies last shall be substituted for the reference to the date of the death of the author.

(2) Where, in the case of a work of joint authorship, some one or more of the joint authors do not satisfy the conditions conferring copyright laid down by this Act, the work shall be treated for the purposes of this Act as if

the other author or authors had been the sole author or authors thereof:

Provided that the term of the copyright shall be the same as it would have been if all the authors had satisfied such conditions as aforesaid.

(3) For the purposes of this Act "a work of joint authorship" means a work produced by the collaboration of two or more authors in which the contribution of one author is not distinct from the contribution of the other author or authors.

(4) Where a married woman and her husband are joint authors of a work the interest of such married woman therein shall be her separate property.

17. (1) In the case of a literary dramatic or musical work, or an engraving, in which copyright subsists at the date of the death of the author or, in the case of a work of joint authorship at or immediately before the date of the death of the author who dies last, but which has not been published, nor, in the case of a dramatic or musical work, been performed in public, nor, in the case of a lecture, been delivered in public, before that date, copyright shall subsist till publication, or performance or delivery in public, whichever may first happen, and for a term of fifty years thereafter, and the proviso to section three of this Act shall, in the case of such a work, apply as if the author had died at the date of such publication or performance or delivery in public as aforesaid.

(2) The ownership of an author's manuscript after his death, where such ownership has been acquired under a testamentary disposition made by the author and the manuscript is of a work which has not been published nor performed in public nor delivered in public, shall be *prima facie* proof of the copyright being with the owner of the manuscript.

18. Without prejudice to any rights or privileges of the Crown, where any work has, whether before or after the commencement of this Act, been prepared or published by or under the direction or control of His Majesty or any Government department, the copyright in the work shall, subject to any agreement with the author, belong to His Majesty, and in such case shall continue for a period of fifty years from the date of the first publication of the work.

19. (1) Copyright shall subsist in records, perforated rolls, and other contrivances by means of which sounds may be mechanically reproduced, in like manner as if such contrivances were musical works, but the term of copyright shall be fifty years from the making of the original plate from which the contrivance was directly or indirectly derived, and the person who was the owner of such original plate at the time when such plate was made shall be deemed to be the author of the work, and, where such owner is a body corporate, the body corporate shall be deemed for the purposes of this Act to reside within the parts of His Majesty's dominions to which this Act extends if it has established a place of business within such parts.

(2) It shall not be deemed to be an infringement of copyright in any musical work for any person to make, within the parts of His Majesty's dominions to which this Act extends, records, perforated rolls or other contrivances by means of which the work may be mechanically performed, if such person proves—

(a) that such contrivances have previously been made by, or with the consent or acquiescence of, the owner of the copyright in the work; and

(b) that he has given the prescribed notice of his intention to make the contrivances, and has paid in the prescribed manner to, or for the benefit of, the owner of

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the copyright in the work royalties in respect of all such contrivances sold by him, calculated at the rate hereinafter mentioned:—

Provided that—

(i) nothing in this provision shall authorise any alterations in, omissions from, the work reproduced, unless contrivances reproducing the work subject to similar alterations and omissions have been previously made by, or with the consent or acquiescence of, the owner of the copyright, or unless such alterations or omissions are reasonably necessary for the adaptation of the work to the contrivances in question; and

(ii) for the purposes of this provision, a musical work shall be deemed to include any words so closely associated therewith as to form part of the same work, but shall not be deemed to include a contrivance by means of which sounds may be mechanically reproduced.

(3) The rate at which such royalties as aforesaid are to be calculated shall—

(a) in the case of contrivances sold within two years after the commencement of this Act by the person making the same, be two and one-half per cent; and

(b) in the case of contrivances sold as aforesaid after the expiration of that period, be five per cent

on the ordinary retail selling price of the contrivance calculated in the prescribe manner, so however that the royalty payable in respect of a contrivance shall, in no case, be less than a half-penny for each separate musical work in which copyright subsists reproduced thereon, and, where the royalty calculated as aforesaid includes a fraction of a farthing, such fraction shall be reckoned as a farthing:

Provided that, if, at any time after the expiration of seven years from the commencement of this Act, it appears to the Board of Trade that such rate as aforesaid is no

longer equitable, the Board of Trade may, after holding a public inquiry, make an order either decreasing or increasing that rate to such extent as under the circumstances may seem just, but any order so made shall be provisional only and shall not have any effect unless and until confirmed by Parliament; but, where an order revising the rate has been so made and confirmed, no further revision shall be made before the expiration of fourteen years from the date of the last revision.

(4) If any such contrivance is made reproducing two or more different works in which copyright subsists and the owners of the copyright therein are different persons, the sums payable by way of royalties under this section shall be apportioned amongst the several owners of the copyright in such proportions as, failing agreement, may be determined by arbitration.

(5) When any such contrivances by means of which a musical work may be mechanically performed have been made, then, for the purposes of this section, the owner of the copyright in the work shall, in relation to any person who makes the prescribed inquiries, be deemed to have given his consent to the making of such contrivances if he fails to reply to such inquiries within the prescribed time.

(6) For the purposes of this section, the Board of Trade may make regulations prescribing anything which under this section is to be prescribed, and prescribing the mode in which notices are to be given and the particulars to be given in such notices, and the mode, time, and frequency of the payment of royalties, and any such regulations may, if the Board think fit, include regulations requiring payment in advance or otherwise securing the payment of royalties.

(7) In the case of musical works published before the commencement of this Act, the foregoing provisions shall have effect, subject to the following modifications and additions:—

(a) The conditions as to the previous making by, or with the consent or acquiescence of, the owner of the

copyright in the work, and the restrictions as to alterations in or omissions from the work shall not apply :

(b) The rate of two and one-half per cent shall be substituted for the rate of five per cent as the rate at which royalties are to be calculated, but no royalties shall be payable in respect of contrivances sold before the first day of July, nineteen hundred and thirteen, if contrivances reproducing the same work had been lawfully made, or placed on sale, within the parts of His Majesty's dominions to which this Act extends before the first day of July, nineteen hundred and ten :

(c) Notwithstanding any assignment made before the passing of this Act of the copyright in a musical work, any rights conferred by this Act in respect of the making, or authorising the making of contrivances by means of which the work may be mechanically performed shall belong to the author or his legal personal representatives and not to the assignees, and the royalties aforesaid shall be payable to, and for the benefit of, the author of the work or his legal personal representatives :

(d) The saving contained in this Act of the rights and in interests arising from, or in connexion with, action taken before the commencement of this Act shall not be construed as authorising any person who has made contrivances, by means of which the work may be mechanically performed to sell any such contrivances, whether made before or after the passing of this Act, except on the terms and subject to the conditions laid down in this section :

(e) Where the work is a work on which copyright is conferred by an Order in Council relating to a foreign country, the copyright so conferred shall not, except to such extent as may be provided by the Order, include any rights with respect to the making of records, perforated rolls or other contrivances by means of which the work may be mechanically performed.

(8) Notwithstanding anything in this Act where a record, perforated roll, or other contrivance by means of which sounds may be mechanically reproduced has been made before the commencement of this Act, copyright shall, as from the commencement of this Act, subsist therein in like manner and for the like term as if this Act had been in force at the date of the making of the original plate from which the contrivance was directly or indirectly derived :

Provided that—

(i) the person who, at the commencement of this Act, is the owner of such original plate shall be the first owner of such copyright ; and

(ii) nothing in this provision shall be construed as conferring copyright in any such contrivance if the making thereof would have infringed copyright in some other such contrivance, if this provision had been in force at the time of the making of the first mentioned contrivance.

20. Notwithstanding anything in this Act it shall not be an infringement of copyright in an address of a political nature delivered at a public meeting to publish a report thereof in a newspaper.

Provision as to political speeches.

21. The term for which copyright shall subsist in photographs shall be fifty years from the making of the original negative from which the photograph was directly or indirectly derived and the person who was owner of such negative at the time when such negative was made shall be deemed to be the author of the work, and, where such owner is a body corporate, the body corporate shall be deemed for the purposes of this Act to reside within the parts of His Majesty's dominions to which this Act extends if it has established a place of business within such parts.

Provision as to photographs.

22. (1) This Act shall not apply to designs capable of being registered under the Patents and Designs Act, 1907, except designs which, though capable of being so registered, are not used or intended to be used as models or patterns to be multiplied by any industrial process.

(2) General rules under section eighty-six of the Patents and Designs Act, 1907, may be made for determining conditions under which a design shall be deemed to be used for such purposes as aforesaid.

23. If it appears to His Majesty that a foreign country does not give, or has not undertaken to give, adequate protection to the works of British authors, it shall be lawful for His Majesty by Order in Council to direct that such of the provision of this Act as confer copyright on works first published within the parts of His Majesty's dominions to which this Act extends shall not apply to works published after the date specified in the Order, the authors whereof are subjects or citizens of such foreign country, and are not resident in His Majesty's dominions, and thereupon those provisions shall not apply to such works.

24. (1) Where any person is immediately before the commencement of this Act entitled to any such right in any work as is specified in the First column of the First Schedule to this Act, or to any interest in such a right, he shall, as from that date, be entitled to the substituted right set forth in the second column of that schedule, or to the same interest in such a substituted right, and to no other right or interest, and such substituted right shall subsist for the term for which it would have subsisted if this Act had been in force at the date when the work was made and the work had been one entitled to copyright thereunder.

Provided that—

(a) if the author of any work in which any such right as is specified in the first column of the First Schedule to this Act subsists at the commencement of this Act has, before that date, assigned the right or granted any interest therein for the whole term of the right, then at the date when, but for the passing of this Act, the right would have expired the substituted right conferred by this section shall, in the absence of express agreement, passed to the author of the work, and any interest therein created before the commencement of this Act and then subsisting shall determine; but the person who immediately before the date at which the right would so have expired was the owner of the right or interest shall be entitled at his option either—

(i) on giving such notice as hereinafter mentioned to an assignment of the right or the grant of a similar interest therein for the remainder of the term of the right for such consideration as, failing agreement, may be determined by arbitration; or

(ii) without any such assignment or grant, to continue to reproduce or perform the work in like manner as theretofore subject to the payment, if demanded by the author within three years after the date at which the right would have so expired, of such royalties to the author as, failing agreement, may be determined by arbitration, or, where the work is incorporated in a collective work and the owner of the right or interest is the proprietor of that collective work without any such payment;

The notice above referred to must be given not more than one year nor less than six months before the date at which the right would have so expired, and must be sent by registered post to the author, or, if he cannot with reasonable diligence be found, advertised in the London Gazette and in two London newspapers;

(b) where any person has, before the twentysixth day of July, nineteen hundred and ten, taken any action whereby he has incurred any expenditure or liability in con-

in connexion with the reproduction or performance of any work in a manner which at the time was lawful, or for the purpose of or with a view to the reproduction or performance of a work at a time when such reproduction or performance would, but for the passing of this Act, have been lawful, nothing in this section shall diminish or prejudice any rights or interest arising from or in connexion with such action which are subsisting and valuable at the said date, unless the person who by virtue of this section becomes entitled to restrain such reproduction or performance agrees to pay such compensation as, failing agreement, may be determined by arbitration.

(2) For the purposes of this section, the expression "author" includes the legal personal representatives of a deceased author.

(3) Subject to the provisions of section nineteen, sub-sections (7) and (8) and of section thirty-three of this Act, copyright shall not subsist in any work made before the commencement of this Act, otherwise than under, and in accordance with, the provisions of this section.

NOTES.

(2) S. 24 16 Cr. L. J., 673,—*Challapaswami v. Singaravelu Mudaliar*. Absence of provisions in the New Act to grant to owners of existing copyright, right at least as valuable as the rights given under the old Act, does not bar the admissibility of evidence under s. 114 of the Evidence Act to prove such right.

Application to British Possessions.

25. (1) This Act, except such of the provisions thereof as are expressly restricted to the United Kingdom, shall extend throughout His Majesty's dominions: Provided that it shall not extend to a self-governing dominion, unless declared by the Legislature of that dominion to be in force therein either without any modifications or additions, or with such

modifications and additions relating exclusively to procedure and remedies, or necessary to adapt this Act to the circumstances of the dominion, as may be enacted by such Legislature.

(2) If the Secretary of State certifies by notice published in the London Gazette that any self-governing dominion has passed legislation under which works, the authors whereof were at the date of the making of the works British subjects resident elsewhere than in the dominion or (not being British subjects) were resident in the parts of His Majesty's dominions to which this Act extends, enjoy within the dominion rights substantially identical with those conferred by this Act, then, whilst such legislation continues in force, the dominion shall, for the purposes of the rights conferred by this Act, be treated as if it were a dominion to which this Act extends; and it shall be lawful for the Secretary of State to give such a certificate as aforesaid, notwithstanding that the remedies for enforcing the rights, or the restrictions on the importation of copies of works, manufactured in a foreign country, under the law of the dominion, differ from those under this Act.

26. (1) The legislature of any self-governing dominion may, at any time, repeal all or any of the enactments relating to copyright passed by Parliament (including this Act) so far as they are operative within that dominion: Provided that no such repeal shall prejudicially affect any legal rights existing at the time of the repeal, and that, on this Act or any part thereof being so repealed by the Legislature of a self-governing dominion, that dominion shall cease to be a dominion to which this Act extends.

(2) In any self-governing dominion to which this Act does not extend the enactments repealed by this Act shall, so far as they are operative in that dominion, continue in force until repealed by the Legislature of that dominion.

(8) Where His Majesty in Council is satisfied that the law of a self-governing dominion to which this Act does not extend provides adequate protection within the dominion for the works (whether published or unpublished) of authors who at the time of the making of the work were British subjects resident elsewhere than in that dominion, His Majesty in Council may, for the purpose of giving reciprocal protection, direct that this Act, except such parts (if any) thereof as may be specified in the Order, and subject to any conditions contained therein, shall, within the parts of His Majesty's dominions to which this Act extends, apply to works the authors whereof were, at the time of the making of the work, resident within the first-mentioned dominion, and to works first published in that dominion; but save as provided by such an Order, works the authors whereof were resident in a dominion to which this Act does not extend shall not, whether they are British subjects or not, be entitled to any protection under this Act except such protection as is by this Act conferred on works first published within the parts of His Majesty's dominions to which this Act extends:

Provided that no such Order shall confer any rights within a self-governing dominion, but the Governor in Council of any self-governing dominion to which this Act extends may, by Order, confer within that dominion the like rights as His Majesty in Council is, under the foregoing provisions of this sub-section, authorised to confer within other parts of His Majesty's dominions.

For the purposes of this sub-section, the expression "a dominion to which this Act extends" includes a dominion which is for the purposes of this Act to be treated as if it were a dominion to which this Act extends.

27. The Legislature of any British possession of which this Act extends may modify or add to any of the provisions of this Act in its application to the possession, but, except so far as such modifications and additions relate to procedure and remedies, they

Power of Legislatures of British possessions to pass supplemental legislation.

shall apply only to works the authors whereof were, at the time of the making of the work, resident in the possession, and to works first published in the possession.

28. His Majesty may, by Order in Council, extend this Act to any territories under his protection and to Cyprus, and, on the making of any such Order, this Act shall, subject to the provisions of the Order, have effect as if the territories to which it applies or Cyprus were part of His Majesty's dominions to which this Act extends.

Application to protectorates.

PART II.

INTERNATIONAL COPYRIGHT.

29. (1) His Majesty may, by Order in Council, direct that this Act (except such parts, if any, thereof as may be specified in the Order) shall apply—

Power to extend Act to foreign works.

(a) to works first published in a foreign country to which the Order relates, in like manner as if they were first published within the parts of His Majesty's dominions to which this Act extends;

(b) to literary dramatic musical and artistic works, or any class thereof, the authors whereof were, at the time of the making of the works, subjects or citizens of a foreign country to which the Order relates, in like manner as if the authors were British subjects;

(c) in respect of residence in a foreign country to which the Order relates, in like manner as if such residence were residence in the parts of His Majesty's dominions to which this Act extends;

and thereupon, subject to the provisions of this Part of this Act and of the Order, this Act shall apply accordingly:

Provided that—

(i) before making an Order in Council under this section in respect of any foreign country (other than a country

with which His Majesty has entered into a convention relating to copyright), His Majesty shall be satisfied that that foreign country has made, or has undertaken to make such provisions, if any, as it appears to His Majesty expedient to require for the protection of works entitled to copyright under the provisions of Part I of this Act :

(ii) the Order in Council may provide that the term of copyright within such parts of His Majesty's dominions as aforesaid shall not exceed that conferred by the law of the country to which the Order relates ;

(iii) the provisions of this Act as to the delivery of copies of books shall not apply to works first published in such country, except so far as is provided by the Order ;

(iv) the Order in Council may provide that the enjoyment of the rights conferred by this Act shall be subject to the accomplishment of such conditions and formalities (if any) as may be prescribed by the Order ;

(v) in applying the provisions of this Act as to ownership of copyright, the Order in Council may make such modifications as appear necessary having regard to the law of the foreign country ;

(vi) in applying the provisions of this Act as to existing works, the Order in Council may make such modifications as appear necessary, and may provide that nothing in those provisions as so applied shall be construed as reviving any right of preventing the production or importation of any translation in any case where the right has ceased by virtue of section five of the International Copyright Act, 1886.

(2) An Order in Council under this section may extend to all the several countries named or described therein.

30. (1) An Order in Council under this Part of this Act shall apply to all His Majesty's dominions to which this Act extends except self-governing dominions and any other possessions specified in the Order with respect to

Application of Part
11 to British possessions.

which it appears to His Majesty expedient that the Order should not apply.

(2) The Governor in Council of any self-governing dominion to which this Act extends may, as respects that dominion, make the like Orders as under this Part of this Act His Majesty in Council is authorised to make with respect to His Majesty's dominions other than self-governing dominions, and the provisions of this part of this Act shall, with the necessary modifications, apply accordingly.

(3) Where it appears to His Majesty expedient to except from the provisions of any Order any part of his dominions, not being a self governing dominion, it shall be lawful for His Majesty by the same or any other Order in Council to declare that such Order and this Part of this Act shall not, and the same shall not, apply to such part, except so far as is necessary for preventing any prejudice to any rights acquired previously to the date of such Order.

PART III

SUPPLEMENTAL PROVISIONS.

31. No person shall be entitled to copyright or any similar right in any literary dramatic musical or artistic work, whether published or unpublished, otherwise than under and in accordance with provisions of this Act, or of any other statutory enactment for the time being in force, but nothing in this section shall be construed as abrogating any right or jurisdiction to restrain a breach of trust or confidence.

32. (1) His Majesty in Council may make Orders for altering, revoking, or varying any Provisions as to Orders in Council. Order in Council made under this Act, or under any enactments repealed by this Act, but any Order made under this section shall not affect prejudicially any rights or interests acquired or accrued at the date when the Order comes into operation, and shall provide for the protection of such rights and interests.

(2) Every Order in Council made under this Act shall be published in the *London Gazette* and shall be laid before both Houses of Parliament as soon as may be after it is made, and shall have effect as if enacted in this Act.

33. Nothing in this Act shall deprive any of the universities and colleges mentioned in the Copyright Act, 1775, of any copyright they already possess under that Act, but the remedies and penalties for infringement of any such copyright shall be under this Act and not under that Act.

Saving of university copyright.
15 Geo. 3, c. 53.

34. There shall continue to be charged on, and paid out of, the Consolidated Fund of the United Kingdom such annual compensation as was immediately before the commencement of this Act payable in pursuance of any Act as compensation to a library for the loss of the right to receive gratuitous copies of books ;

Saving of compensation to certain libraries.

Provided that this compensation shall not be paid to a library in any year, unless the Treasury are satisfied that the compensation for the previous year has been applied in the purchase of books for the use of and to be preserved in the library.

35. (1) In this Act, unless the context otherwise requires,—

Interpretation.

“Literary work” includes maps, charts, plans, tables and compilations ;

“Dramatic work” includes any piece for recitation, choreographic work or entertainment in dumb show, the scenic arrangement or acting form of which is fixed in writing or otherwise, and any cinematograph production where the arrangement or acting form or the combination of incidents represented give the work an original character ;

“Artistic work” includes works of painting, drawing, sculpture and artistic craftsmanship and architectural works of art and engravings and photographs ;

“Work of sculpture” includes casts and models ;

“Architectural work of art” means any building or structure having an artistic character or design, in respect of such character or design, or any model for such building or structure, provided that the protection afforded by this Act shall be confined to the artistic character and design, and shall not extend to processes or methods of construction ;

“Engravings” include etchings, lithographs, wood-cuts, prints, and other similar works, not being photographs ;

“Photograph” includes photo-lithograph and any work produced by any process analogous to photography ;

“Cinematograph” includes any work produced by any process analogous to cinematography ;

“Collective work” means—

(a) an encyclopædia, dictionary, year book, or similar work ;

(b) a newspaper, review, magazine, or similar periodical ; and

(c) any work written in distinct parts by different authors, or in which works or parts of works of different authors are incorporated ;

“Infringing,” when applied to a copy of a work in which copyright subsists, means any copy, including any colourable imitation, made or imported in contravention of the provisions of this Act ;

“Performance” means any acoustic representation of a work and any visual representation of any dramatic action in a work, including such a representation made by means of any mechanical instrument ;

“Delivery,” in relation to a lecture, includes delivery by means of any mechanical instrument ;

"Plate," includes any stereotype or other plate, stone, block, mould, matrix, transfer, or negative used or intended to be used for printing or reproducing copies of any work, and any matrix or other appliance by which records, perforated rolls or other contrivances for the acoustic representation of the work are, or are intended to be, made;

"Lecture" includes address, speech, and sermon;

"Self-governing dominion" means the Dominion of Canada, the Commonwealth of Australia, the Dominion of New Zealand, the Union of South Africa, and Newfoundland.

(2) For the purposes of this Act (other than those relating to infringements of copyright), a work shall not be deemed to be published or performed in public, and a lecture shall not be deemed to be delivered in public, if published, performed in public, or delivered in public, without the consent or acquiescence of the author, his executors, administrators or assigns.

(3) For the purposes of this Act, a work shall be deemed to be first published within the parts of His Majesty's dominions to which this Act extends, notwithstanding that it has been published simultaneously in some other place, unless the publication in such parts of His Majesty's dominions as aforesaid is colourable only and is not intended to satisfy the reasonable requirements of the public, and a work shall be deemed to be published simultaneously in two places if the time between the publication in one such place and the publication in the other place does not exceed fourteen days, or such longer period as may, for the time being, be fixed by Order in Council.

(4) Where, in the case of an unpublished work, the making of a work has extended over a considerable period, the conditions of this Act conferring copyright shall be deemed to have been complied with, if the author was, during any substantial part of that period, a British sub-

ject or a resident within the parts of His Majesty's dominions to which this Act extends.

(5) For the purposes of the provisions of this Act as to residence, an author of a work shall be deemed to be a resident in the parts of His Majesty's dominions to which this Act extends if he is domiciled within any such part.

36. Subject to the provisions of this Act, the enactments mentioned in the Second Schedule to this Act are hereby repealed to the extent specified in the third column of that schedule:

Provided that this repeal shall not take effect in any part of His Majesty's dominions until this Act comes into operation in that part.

Short title and commencement. 37. (1) This Act may be cited as the Copyright Act, 1911.

(2) This Act shall come into operation—

(a) in the United Kingdom, on the first day of July nineteen hundred and twelve or such earlier date as may be fixed by Order in Council;

(b) in a self-governing dominion to which this Act extends, at such date as may be fixed by the Legislature of that dominion;

(c) in the Channel Islands, at such date as may be fixed by the States of those Islands respectively;

(d) in any other British possession to which this Act extends, on the proclamation thereof within the possession by the Governor.

COPYRIGHT ACT.

SCHEDULES.

FIRST SCHEDULE.—SECTION 24.—EXISTING RIGHTS.

Existing Right.	Substituted Right.
<i>(a) In the case of Works other than Dramatic and Musical Works.</i>	
Copyright ...	Copyright as defined by this Act *
<i>(b) In the case of Musical and Dramatic Works.</i>	
Both copyright and performing right.	Copyright as defined by this Act.*
Copyright, but not performing right.	Copyright as defined by this Act, except the sole right to perform the work or any substantial part thereof in public.
Performing right, but not copyright.	The sole right to perform the work in public, but none of the other rights comprised in copyright as defined by this Act.

* In the case of an essay, article, or portion forming part of and first published in a review, magazine, or other periodical or work of a like nature, the right shall be subject to any right of publishing the essay, article, or portion in a separate form to which the author is entitled at the commencement of this Act, or would, if this Act had not been passed, have become entitled under section eighteen of the Copyright Act, 1842.

For the purposes of this Schedule the following expressions, where used in the first column thereof, have the following meanings :—

“Copyright,” in the case of a work which according to the law in force immediately before the commencement of this Act has not been published

before that date and statutory copyright wherein depends on publication, includes the right at common law (if any) to restrain publication or other dealing with the work ;

“Performing right,” in the case of a work which has not been performed in public before the commencement of this Act, includes the right at common law (if any) to restrain the performance thereof in public.

SECOND SCHEDULE.—ENACTMENTS REPEALED.—*Section 36.*

Session and Chapter.	Short title.	Extent of Repeal.
Geo. 2, c. 13 ...	The Engraving Copyright Act, 1734.	The whole Act.
7 Geo. 3, c. 38 ...	The Engraving Copyright Act, 1767.	Ditto.
15 Geo. 3, c. 53 ...	The Copyright Act, 1775	Ditto.
17 Geo. 3, c. 57 ...	The Prints Copyright Act, 1777.	Ditto.
54 Geo. 3 c. 56 ...	The Sculpture Copyright Act, 1814.	Ditto.
3 & 4 Will. 4, c. 15	The Dramatic Copyright Act, 1833.	Ditto.
5 & 6 Will. 4, c. 65	The Lectures Copyright Act, 1835.	Ditto.
6 & 7 Will. 4, c. 59	The Prints and Engravings Copyright (Ireland) Act, 1836.	Ditto.
6 & 7 Will. 4, c. 110	The Copyright Act, 1836	Ditto.

SECOND SCHEDULE.—ENACTMENTS REPEALED.—*Contd.*

Session and Chapter.	Short title.	Extent of Repeal.
5 & 6 Vict., c. 45 ...	The Copyright Act, 1842	The whole Act.
7 & 8 Vict., c. 12 ...	The International Copyright Act, 1844.	Ditto.
10 & 11 Viet., c. 95	The Colonial Copyright Act, 1847.	Ditto.
15 & 16 Vict., c. 12	The International Copyright Act, 1852.	Ditto.
25 & 26 Vict., c. 68	The Fine Arts Copyright Act, 1862.	Sections one to six. In section eight the words "and pursuant to any Act for the protection of; copyright engravings," and "and in any such Act as aforesaid," Sections nine to twelve.
38 & 39 Vict., c. 12	The International Copyright Act, 1875.	The whole Act.
39 & 40 Vict., c. 36	The Customs Consolidation Act, 1876.	Section forty two, from "Books wherein" to "such copyright will expire." Sections forty-four, forty-five and one hundred and fifty-two.
45 & 46 Vict., c. 40	The Copyright (Musical Compositions) Act, 1882.	The whole Act.
49 & 50 Vict., c. 33	The International Copyright Act, 1886.	Ditto.
51 & 52 Vict., c. 17	The Copyright (Musical Compositions) Act, 1888.	Ditto.
52 & 53 Vict., c. 42	The Revenue Act, 1889.	Section one, from "Books first published" to "as provided in that section."

SECOND SCHEDULE.—Enactments Repealed.—contd..

Session and Chapter.	Short Title.	Extent of Repeal.
6 Edw. 7, c. 36 ...	The Musical Copyright Act, 1906.	In section three the words and which has been registered in accordance with the provisions of the Copyright Act, 1842, or of the International Copyright Act, 1844, which registration may be effected notwithstanding anything in the International Copyright Act, 1886.

REPEAL OF ENACTMENTS.—(See Section 15).

Year.	No.	Short Title.	Extent of Repeal,
1847	XX	The Indian Copyright Act, 1847.	So much as has not already been repealed.
1867	XXV	The Press and Registration of Books Act, 1867.	In section 18 the following words, namely:—“Every registration under this section shall, upon the payment of the sum of two rupees to the office keeping the said Catalogue, be deemed to be an entry in the Book of Registry kept under Act No. XX of 1847 (for the encouragement of learning in the territories subject to the government of the East India Company by the defining and providing for the enforcement of the right called copyright therein); and the provisions contained in that Act as to the said Book of Registry shall apply <i>mutatis mutandis</i> to the said catalogue.
1878	VIII	The Sea Customs Act, 1878.	Clause (a) of section 18.

GOVERNMENT OF INDIA.—*Notn. No. 425, dated the 17th Nov. 1914.*—The following **Indian Copyright Regulations, 1914**, are published for general information :—

In exercise of the powers conferred by sections 3, 14 and 19 of the Copyright Act, 1911, as modified in its application to British India by the Indian Copyright Act, 1914, the Governor-General in Council is pleased to make the following Regulations :—

PRELIMINARY.

Short title and appli- 1. (1) The Regulations may be
cation. called the Indian Copyright Regu-
lations, 1914.

(2) Regulations 1 to 11 apply to works first published in British India and to records, perforated rolls and other contrivances, the original plate of which was made in British India, and regulations 12 to 19 apply to copies of works the importation of copies of which into British India is prohibited by section 6 of the Indian Copyright Act, 1914.

Interpretation. 2. In these Regulations, unless
there is anything repugnant in the
subject or context—

(1) "The Act" means the Copyright Act, 1911, as modified in its application to British India by the Indian Copyright Act, 1914.

(2) The expression "book or other printed work" means every part of or division of a book, pamphlet, sheet of letter-press, sheet of music, map, plan, chart or table separately published.

(3) "Form" means a form annexed to these regulations.

(4) The expression "owner of the copyright" includes the duly authorized agent of such owner

(5) "Section" means a section of the Act.

ROYALTIES.

Royalties to be ordinarily payable by adhesive labels

3. (1) Unless otherwise agreed, royalties shall be payable by means of adhesive labels purchased from the owner of the copyright.

(2) After the person reproducing a work referred to in section 3 or making a contrivance referred to in section 19 has given the notice prescribed by these Regulations of his intention to reproduce the work or to make or to sell the contrivance, the owner of the copyright shall, if the royalty is payable by means of the adhesive labels, intimate to him, by registered post, some reasonably convenient place within British India from which adhesive labels can be obtained; and on demand in writing and tender of the price, shall supply from such place adhesive labels of the required denominations at a price equal to the amount of royalty represented thereby.

(3) The adhesive label supplied as aforesaid shall be an adhesive paper label, square in shape, the design to be entirely enclosed within a circle and the side of the label not to be greater than $\frac{3}{4}$ inch in length. The label shall not bear the effigy of the Sovereign or any other person, nor any word, mark or design such as to suggest that the label is issued by or under the authority of the Government for the purpose of denoting any duty payable to the Government.

(4) Subject to these regulations, when royalties are payable by means of adhesive labels no copy of any such work and no such contrivance shall be delivered to a purchaser until such label or labels denoting the amount of royalty have been affixed thereto:

Labels to be affixed to copy or contrivance before delivery to purchaser

Provided that in the case of cylinders, to which it is not reasonably practicable to affix the labels, the requirements of this regulation shall be deemed to be fulfilled if

such label or labels have been affixed to a carton or box enclosing the cylinder.

4. (1) When royalties are payable by means of adhesive labels, if at any time labels of the required denomination are not available either because—

Exception in certain cases when labels not available.

(a) after the expiration of one month from the date of the prescribed notice referred to in regulation 3 (2), the owner of the copyright has not duly sent to the person reproducing the work or making the contrivance, as the case may be, an intimation of some reasonably convenient place within British India from which such labels can be obtained; or

(b) the owner of the copyright, refuses or neglects to supply such labels within one month after demand duly made,

copies of the work or the contrivances, as the case may be, may be delivered to purchasers without having labels affixed thereto as required by regulation 3 (4), and the amount of royalties shall be a debt due from the person reproducing the work or making the contrivances, as the case may be, to the owner of the copyright, and the person aforesaid shall keep an account of all such copies or contrivances sold by him.

(2). For the purposes of this regulation "the date of the prescribed notice" means—

(i) in cases where the notice is required to be sent by registered post, the date when the notice would in ordinary course of post be delivered;

(ii) in cases where the notice is required to be advertised in the *Gazette of India*, and in two newspapers published in British India, the date of such advertisement, or of the latest of such advertisements.

Payment of royalties when payable otherwise than by adhesive labels.

5. Where royalties are by agreement payable in any other mode than by means of adhesive labels, the time and frequency of the payment shall be such as are specified in the agreement.

NOTICES.

Notice required by section 3.

6. The notice required by section 3 shall contain the following particulars :—

- (a) the name and address of the person intending to reproduce the work;
- (b) the name of the work which it is intended to produce and (if necessary) a description sufficient to identify it,
- (c) the manner in which it is intended to reproduce the work (*e. g.*, whether by printing, lithography, photography, etc.),
- (d) the price or prices at which it is intended to publish the work, and
- (e) the earliest date at which any of the copies will be delivered to a purchaser,

and shall be sent or advertised in the manner provided in regulation 8 not less than one month before any copies of the work are delivered to a purchaser.

Notice required by section 19 (2).

7. (1) The notice required by section 19, sub-section (2), shall contain the following particulars :—

- (a) the name and the address of the person intending to make the contrivances,
- (b) the name of the musical work which it is intended to reproduce and of the author (if known) and (if necessary) a description sufficient to identify the musical work,
- (c) the class of contrivances on which it is intended to reproduce the musical work (*e. g.*, whether discs, cylinders or music rolls),

(d) the ordinary retail selling prices of the contrivances and the amount of the royalty payable on each contrivance in respect of the musical work,

(e) the earliest date at which any of the contrivances will be delivered to a purchaser, and

(f) whether any other work is to be reproduced on the same contrivance with the musical work specified in accordance with paragraph (b),

and shall be sent or advertised in the manner provided in regulation 8, not less than one month before any contrivances on which the musical work is reproduced are delivered to a purchaser :

Provided that any number of musical works may be included in the same advertisement.

(2) In cases where royalties are payable on contrivances made before the 30th day of October 1912, being the commencement in British India of the Copyright Act, 1911, the person making such contrivances may give notice of his intention to sell them, containing *mutatis mutandis* the same particulars and given in the same manner as is prescribed by these Regulations in the case of the notice required by section 19, sub-section (2)

(3) The ordinary retail selling price of any contrivance shall be calculated at the marked or catalogued selling price of single copies to the public or, if there is no such marked or catalogued selling price, at the highest price at which single copies are ordinarily sold to the public: and one half anna shall be deemed to be the equivalent of one half penny and one quarter anna of one farthing.

Service and advertisement of notices.

8. The notices referred to in the two last foregoing regulations shall be sent by registered post or advertised as follows —

(a) if the name and an address within British India of the owner of the copyright are known or can with reasonable diligence be ascertained, the notice shall be sent to him at such address ;

(b) if such name and address are not known and cannot with reasonable diligence be ascertained the notice shall be advertised in the *Gazette of India* and in two newspapers published in British India; such advertisements shall give the particulars required by paragraphs (a) and (b) of regulation 6 or regulation 7, as the case may be, and shall also state an address from which a copy of the notice may be obtained.

INQUIRIES.

9. The inquiries referred to in section 19, sub-section (5), shall be directed to the owner of the copyright by name or (if his name is not known and cannot with reasonable diligence be ascertained) in general terms to "the owner of the copyright" of the musical work in respect of which the inquiries are made, and shall contain—

(a) a statement of the name of the musical work in respect of which the inquiries are made and of the author (if known) and (if necessary) a description sufficient to identify it;

(b) a statement of the name, address and occupation of the person making the inquiries;

(c) an allegation that a contrivance has previously been made by means of which the musical work may be mechanically performed, with the trade name (if known) and a description of such contrivance; and

(d) an inquiry whether the contrivance so described was made with the consent or acquiescence of the owner of the copyright.

10. The inquiries shall be sent by registered post or advertised as follows:—

(a) If an address within British India of the owner of the copyright is known or can with reasonable diligence be ascertained, the inquiries shall be sent to such address; or

(b) if such address is not known and cannot with reasonable diligence be ascertained, the inquiries shall be advertised in the *Gazette of India* and in two newspapers published in British India.

Prescribed time for
reply to inquiries.

11. The prescribed time for reply
to such inquiries shall be—

(a) in cases where inquiries are required to be sent by registered post, one month after the date when the inquiries would in ordinary course of post be delivered;

(b) in cases where the inquiries are required to be advertised in the *Gazette of India* and in two newspapers published in British India, one month after the date of such advertisement or of the latest of such advertisements.

IMPORTATION OF COPIES.

12. The notice to be given to the Chief Customs officer under section 6 of the Indian Copyright Act, 1914, requesting that copies of any book or other printed work printed or reprinted out of British India, shall not be imported into British India, shall be in Form No. 1 or as near thereto as circumstances permit.

13. The notice to be given to the Chief Customs officer under section 6 of the Indian Copyright Act, 1914, requesting that copies of any work made out of British India other than a book or other printed work, shall not be imported into British India, shall be either in Form No. 2 or in Form No. 3, or as near thereto as circumstances permit.

14. Any notice given under section 14, sub-section (1), of the Copyright Act, 1911, to the British Customs Authorities. Commissioners of Customs and Excise of the United Kingdom, and communicated by that authority through the Governor-General in Council or the

Local Government to the Chief Customs officer, shall be deemed to have been given to such officer by the owner of the copyright.

15. Before any article is detained as a copy of a work to which any such notice as aforesaid Further information and affidavit. applies or any further proceedings with a view to the confiscation thereof under the law relating to the Customs are taken, the Chief Customs officer may require the owner of the copyright—

(a) to give him in writing such further information such officer may consider necessary to satisfy himself that the article in question is liable to detention and confiscation, and such person shall be bound to give such information accordingly, and

(b) to verify the information contained in the notice or given under clause (a) by an affidavit.

16. Whenever any goods are detained in pursuance of a notice in Form No. 3, the Chief Security deposit. Customs officer may require the owner of the copyright to deposit with him as security a sum of money sufficient, in the opinion of such officer, to cover any expenses which may be incurred in the examination required by reason of the notice.

17. Whenever any goods are detained in pursuance of any notice given under these Regulations, the Chief Customs officer may Undertaking to reimburse and security bond. require the owner of the copyright—

(a) to give an undertaking in writing to reimburse the Secretary of State for India in Council all expenses and damages incurred in respect of the detention and of any proceedings for confiscation subsequently taken, if such an undertaking has not already been given, and

(b) within four days after the detention to enter into a bond for such reimbursement, with two approved sureties,

in such form and for such amount as the Chief Customs officer may require ;

Provided that, on the completion of such bond, any money previously deposited under regulation 16 shall be returned.

18. If upon the examination of goods detained under Delivery of goods these Regulations, the Chief Customs officer is satisfied that there is no ground for their detention, he may order them to be delivered.

19. Any notice in regard to any book in which copyright subsisted on the 24th February 1914, which was given to and accepted by the Chief Customs Authority on or before that date under section 18 (a) of the Sea Customs Act, 1878, shall, so long as the copyright subsists, be treated as a notice given under section 6 of the Indian Copyright Act, 1914, unless the notice is withdrawn or superseded ;

Provided that the Chief Customs officer may require the owner of the copyright to give a fresh notice in accordance with these Regulations, or to comply with any of the provisions of these Regulations, regarding further information, verification, or security ; and from such date as the Chief Customs officer may, by such requisition, fix in this behalf, the notice given under section 18 (a) of the Sea Customs Act, 1878, shall be deemed void and of no effect.

FORM No. 1.—NOTICE.

RELATING TO IMPORTATION OF COPYRIGHT BOOKS AND OTHER
PRINTED WORKS.

TO THE CHIEF CUSTOMS OFFICER,

I _____ of _____
hereby give you notice that copyright in the original work
(1) _____ mentioned in the Schedule hereto now subsists
under the Copyright Act, 1911, as modified by the Indian
Copyright Act, 1914, and that (2) _____
the owner of the copyright in the said work (1) _____
and that (3) _____ desirous that copies of the said work
(1) _____ printed or reprinted out of British India,
shall not be imported into British India.

Dated this _____ day of _____ 19

(Signature) _____

(4)

Schedule.

Title of book (5) _____

Description of printed work, if not a book—

Full name of author or authors _____

Whether author or authors alive, if not, date of death

When and where (6) book or printed work first published

(1) or works.

(2) If notice is given by the owner insert "I am". If given by an agent insert the name of owner and the word "is".

(3) "I am" or "he is."

(4) If an agent insert "Agent of owner".

(5) The notice may apply to a number of books or printed works in which case the particulars in the Schedule must be given as respects each book or printed work.

(6) It is sufficient to state the *country* of first publication.

(Note.—Where advantage has been taken of the provisions of the Copyright Act, 1911, as modified by the Indian Copyright Act, 1914, as to simultaneous publication the date and place stated should be those which entitle the work to Copyright in British India.)

COPYRIGHT REGULATIONS.

FORM No. 2.—NOTICE.

RELATING TO IMPORTATION OF COPYRIGHT WORKS, OTHER THAN
BOOKS OR OTHER PRINTED WORKS.

TO THE CHIEF CUSTOMS OFFICER.

I _____
of _____
hereby give you notice that copyright in the original work mentioned in the Schedule hereto now submits under the Copyright Act, 1911, as modified by the Indian Copyright Act, 1914 and that (1) _____ the owner of the copyright in the said work and that (2) _____ desirous that copies of the said work made out of British India, shall not be imported into British India.

Dated the _____ day of _____ 19

(Signature) _____

(3) _____

Schedule.

Title of work (if any) _____

Full description of work _____

Initials or marks (if any) usually placed on copies of work _____

Full name of author or authors _____

Whether author or authors alive, if not, date of death _____

When and where (4) work first published _____

If work not published—

Whether author British subject or not _____

If not a British subject, name of country in which author was a resident or domiciled at date of the making of work _____

In case of photographs, photographic records and or music rolls, date of making the original negative original plate _____

(1) If notice given by the owner insert "I am" If given by an agent insert name of owner and the word "is."

(2) "I am" or "he is."

(3) If an agent insert "Agent of owner."

(4) It is sufficient to state the country of the first publication.

(Note.—Where advantage has been taken of the provisions of the Copyright Act, 1911, as modified by the Indian Copyright Act, 1914, as to simultaneous publication, the date and place stated should be those which entitle the work to copyright in British India.)

FORM No. 3.—NOTICE.

RELATING TO A PARTICULAR IMPORTATION.

TO THE CHIEF CUSTOMS OFFICER,

I _____ of _____
 hereby give you notice that I am the owner (1) _____
 _____ of the copyright in a certain
 original work as to which copyright now subsists under the
 Copyright Act, 1911, as modified by the Indian copyright
 Act, 1914, and that the undermentioned goods, that is to
 say, (2) _____

are about to be imported into British India through the
 port of _____ on or about the _____
 day of _____ next in the (3) _____
 from _____

That such goods are liable to detention and confiscation
 as being (4) _____

And I request that the said goods may be detained and
 dealt with accordingly.

And I hereby undertake to reimburse the Secretary of
 State for India in Council all expenses and damages to be
 incurred in respect of the detention, and of any proceedings
 for confiscation which may be subsequently taken.

Dated this _____ day of _____ 19

(Signature) _____

(5) _____

- (1) or agent for the owner.
- (2) Describe the goods, number of packages, marks used, any other particulars necessary for their identification.
- (3) Describe the ship and give name or indication.
- (4) State if the goods are copies of the original work made out of British India, or how otherwise the goods are liable to detention and confiscation.
- (5) If an agent insert "Agent of owner."

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